Supreme Court, U.S.
FILED

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IN THE SUPREME COURT OF THE UNITED STATES

TODD S. GLASSEY,
Pro Se Petitioner,

V.

AMANO, WILLIAMS, GOLDBERG, US NIST, BLUESLATE, WOODS III, BURNET, RIATI, *et al.*,
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT COURT

PETITION FOR WRIT OF CERTIORARI

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Questions Presented

This case is considered to be one of national importance. It pertains to the key issues and the limits of civil arbitrations and how they take notice of federal law and its standing. This case also then has the potential to be very broad reaching in its impact.

What happens in Civil Arbitration's through the American Arbitration Association when the Arbitrator exceeds their authority when

the Arbitration's proceedings are 'contaminated by the admission from one or more of the participant's regarding their participation in an ongoing fraudulent or criminal act, especially one which is discovered in and pertinent to that Arbitration itself;

in this case the sworn admission before that Arbitration tribunal of the commission of Bankruptcy Fraud and the unlawful conversion of private property was made.

The Arbitration right is sold to a party by the US Bankruptcy System as part of contracts purchased from the US Bankruptcy Court (3rd party to the Arbitration agreement under Berglund)..

The American Arbitration Association's Arbitrator refuses to implement the direct order of a Federal Court for consideration of its effect in their Arbitration Ruling?

The American Arbitration Association's Arbitrator fails to disclose key personal conflicts of interest in that arbitration.

And with regard to the primary arbitration question can Civil Arbitrations prevent the review of related but out of jurisdiction matters for cases within arbitrations, that is to say when a case has aspects to it which cannot be resolved through arbitration can the Arbitration perform

the portions of the case it should or should a court handle the whole case?

And as the closing question, which US Court the Petitioner must refer the attached Sale Order of the US Bankruptcy Court to for either an order upholding or an order setting the sale aside?

We ask the Supreme Court this since no other US Court has been willing to either order this Sale Order's enforcement now that the withheld property was properly identified and the parties documented, or to sanction those parties for that fraudulent withholding of that property from the US Bankruptcy Court and the Estate's Trustee.

Parties

Pursuant to Rule 14.1, the following list identifies all of the parties appearing here and in the court below.

Petitioner

Glassey

The Petitioner here and in the United States is Todd S. Glassey who is Pro Se in the matter herein.

Respondents

The Respondents here and in the United States Court of Appeals for the Ninth Circuit are as follows.

Williams

Mr. Mark Williams and as individual and executive of the DEBTOR CertifiedTime Inc (US Bankruptcy 01-54207-MM from August 29th 2001 from San Jose California) without counsel at 378 Kanisku Shores Rd. Sandpoint, Idaho, 83864-6458.

Amano

Amano Corporation per Rule 2.96 is the Amano (Amano) Corporation of Japan located at 275 Mamedo-cho, Kohoku-ku Yokohama, Japan 222-8558; Tel.+81-45-401-144.

Amano is represented in these proceedings by Peter Isola Esq of Davis Wright and Tremaine, Suite 800 505 Montgomery Street, San Francisco, CA 94111-6533 Main: (415) 276-6500 Fax: (415) 276-6599

HUDSON/GOLDBERG

Per Rule 29.6 Hudson Venture Partners LLP and their Partner Mr, Jay Goldberg; are the Limited Liability Partnership called Hudson Venture Partners.

Mr. Goldberg personally sat as the DEBTOR's Chairman of the Board and represented Hudson's investment in the DEBTOR.

Hudson Venture Partners is represented by Ms. Andrea Courtney Esq of Pillsbury Winthrop at 400 Capitol Mall, Suite 1700, Sacramento, CA 95814-4419, +1.916.329.4700 also qualified under 29.6 as well.

BLUESLATE (including WOOD, BARNET, and RIATI)

And per Rule 29.6 Blueslate Solutions LLP and its officers Richard Burnett, David B Wood III and Joseph Riati are individuals involved in the Limited Liability Partnership called Blueslate Solutions, and all served through Blueslate Solutions; (Blue Slate Solutions, Blueslate Solutions, Blueslate)

Blueslate Solutions, is located at 39 Columbia Street, Fifth Floor, Albany, NY 12207 ,Ph: 518.443.0430, Fax: 518.443.0437, with no assigned counsel of record at this time.

US Government, NIST Laboratories

US Government NIST Laboratories, of Gaithersburg Maryland, and are represented and served through Ms. Coleman Esq, US Attorney's Office, Room 371, Federal Court House, 280 S 1st St, San Jose, CA 95113-3005;

Unnamed DOES

In this matter we name ten "Unnamed DOES", of who we had motioned the US District Court to allow us to identify Citicorp Leasing Inc of New York State and Symmetricom Inc, of California in addition to the unnamed-DOES in this matter.

The District Court refused to allow the naming of the DOES in its staying all hearings and freezing the filing of motions before the District Court.

DEBTOR

CertifiedTime Inc

The DEBTOR's bankruptcy was filed on August 29th 2001 in the Northern District of California's Bankruptcy Court of San Jose California, Case # 01-54207-MM. The filing was done by DEFENDANT WILLIAMS with DEFENDANT GLODBERG'S approval.

The estate property and rights was sold to the Petitioner in Sale Order which is included from the US Bankruptcy Court in the Appendices.

ARBITRATOR and AAA

Lois Abraham Esq

Ms. Lois Abraham Esq. and her 'political project and lobbyist' website http://www.34millionfriends.org. Ms. Abraham sat on the Arbitration which was administered through the American Arbitration Association. We seek review of her Arbitration under the California Berglund standard.

Her actions with 34 Million Friends is Global Health Consortia with corporate and private sponsor. As its

principal fund raiser and lobbyist, Ms. Abraham should have disclosed her relationship to this politically active organization as its founder.

American Arbitration Association (AAA)

Because of its refusal to properly disclose conflicts of interest which would have disqualified the Arbitrator, the American Arbitration Association is named here as an unnamed DOE as well as the Arbitrator herself.

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Introduction

This case contains a number of claims against the numerous Respondents The claims stem from a Bankruptcy and the ultimate sale of the 'property hidden by the filers of the Bankruptcy' to the Petitioner to settle a multimillion dollar debt to the Petitioner from the Debtor and AMANO.

The timeline for this case starts in March of 1999 when the Petitioner originally founded the Debtor Entity and started working with NIST on a model for use in supporting the charter of NIST and commoditizing the official US Timebase under 15 U.S.C. 271 and 15 U.S.C. 272. The purpose of this was to create a reliable source of digital time as what is called a "Trust Anchor" for cryptographic processes used in satisfying that digital content properly meets the requirement of the Federal Rules of Evidence and ESI management, a topic which has become important to the US District Court in the post Lorraine v Markel world.

The basis of the case is a dual claim for both frauds in a bankruptcy which was used to both destroy a viable company but also to use the power of the court to "steal" intellectual property from the Petitioner which would be sold to AMANO.

It also contains petitions of review of Arbitration for cause under a number of standards including Kyocera in the DC[1]. Additionally the 'seizure of the Tokyo Data Center"

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[1] In the Federal Ninth Circuit case of *LaPine Technology Corp. v. Kyocera Corp.*, 909 F. Supp. 697, 705 (N.D. Cal. 1995), rev'd, 130 F.3d

and the systems in it also constituted an actionable cause under the US Computer Fraud and Abuse Act.

Finally it pertains to property with the DEBTOR was in possession of at the time of its bankruptcy which it had not paid the Petitioner for and which the Bankruptcy Court lumped into the Estate Property without consideration of the Petitioner's 365(n) rights for the Debtor's non-payment and resale of that property to another Creditor' of the Estate.

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884 (9th Cir. 1997), the arbitration agreement avoided the problem of limited judicial review by requiring the arbitrators to make detailed findings of fact and conclusions of law, and provided that a district court could "vacate, modify or correct any award based upon any of the grounds referred to in the Federal Arbitration Act, where the arbitrators' findings of fact are not supported by substantial evidence, or where the arbitrators' conclusions of law are erroneous. This precedent set in United Paperworkers gave the court absolute authority for purposes of review to determine if the award was a matter of law and if the law was applied erroneously.

Opinions and Case Orders cited in the Case

The Orders of the US District Court in the *Matter of Glassey v Amano et al.* is included in the Appendix as well as the Appellate Court's denial of Appeal and Rehearing.

Metromedia Energy,Inc. v. Enserch Energy Services, Inc., 409 F.3d 574 (3d Cir. (2005) Example of Arbitrators contractually exceeding authority or refusing to enforce the authority that the Arbitration Clause was enacted under including those State laws expected to be enforced as well as underlying Federal Law, Treaty and Trade Agreements pertaining to the enforcement of those State Laws as well.

The application of the *Metromedia* precedent here pertains to this case in that the Petitioner purchased assets from the US Bankruptcy Court including an Arbitration in which the Arbitrator blocked the recovery of that property the Courts themselves sold to the Petitioner.

Metromedia also reinforces the *Gueyffier* standard as well with regard to this claim for relief

Gueyffier v. Ann Summers, Ltd - California Supreme Court

The arbitrator in *Gueyffier v. Ann Summers, Ltd.*, 43 Cal. 4th 1179 (2008), decided that Gueyffier did not have to provide Ann Summers with 60 days notice to cure contractual breaches because doing so would have been an "idle act" as the breaches were not curable. See below for more information on the Supreme Court's ruling.

This opinion supports our argument that our Arbitrator exceeded her authority in not taking into account that "after Amano Seized the systems that they functionally made it impossible to complete those tasks which would enable both parties to agree that the Contract's were in place and enforceable" and further that "By taking those systems Amano prevented any further programming or work to complete whatever deficiencies were there if any" which was a requirement of the contract between the parties (Amano and the Debtor and its successor),

The reasoning simply is that the seizure of the Estate's property is a breach of the agreement and made the 'reworking of those deficiencies' an impossible or idle act, and this was specifically set outside the scope of consideration by the Arbitrator in the Arbitration review was petitioned for. No specific failings in that system have been disclosed to date.

Berglund – In the California Supreme Court

The California Standard for limiting the scope of Arbitration's which are convened by a Third or Outside Party is well defined in California Supreme Court's Berglund precedent (*Berglund v. Arthroscopic & Laser Surgery Center of San Diego*, No. D045218), 2006 Cal. App. LEXIS 766 (May 22, 2006)..

In this matter the State's Supreme Court ruled that parties who are not signatories to an arbitration agreement have not consented to the statutory limits on judicial review of orders and awards, and they must be afforded the additional protections of plenary review by courts.

The simple application of *Berglund* makes Amano's claim of res Judicata moot and no-longer an effective counter-claim to the proper judicial review of the Arbitration, its discovery faults.

Nagrampa v. MailCoups, Inc. (No. 03-15955)

In its Dec. 4 opinion in *Nagrampa v. MailCoups, Inc.* (No. 03-15955), 401 F.3d 1024 (9th Cir. 2005) the appeals court said although an analysis of the facts surrounding the making of an overall contract is required, courts are nonetheless authorized to initially decide the enforceability of an embedded arbitration clause when the challenge specifically targets the clause.

"federal courts cannot shirk their statutory obligation to do so simply because controlling substantive state law requires the court to consider, in the course of analyzing the validity of the arbitration provision, the circumstances surrounding the making of the entire agreement."

Nagrampa applies to document the Ninth Circuits own commitment to not leaving statutory matters undone so to speak

Jurisdiction

This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1254, Glassey having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution as well as public policy.

Case was transferred in from the DC Circuit Appellate

Additionally it is important to notice in this filing that this case was transferred to the Ninth Circuit Appellate from

the DC Circuit Court of Appeals where it was filed in a timely manner after the District Court's dismissal.

The justification for that transfer was that the only recovery sought from Defendant NIST was the Plaintiff's ownership of several Cooperative Research And Development Agreements and the DC Circuit Clerk agreed to transfer the matter back to the West Coast for Defendant AMANO's request.

For that reason alone the Petitioner agreed to have the case transferred back from the DC Circuit to the Ninth Circuit. As such it was clearly not the intention of the Petitioner as a Pro Se litigant to lose any claims against defendant NIST.

Statement of the Case

This case involves a split between the Ninth Circuit and other Circuit Courts as well as a split between the Ninth Circuit and both Supreme Courts (US and California) by refusing to hear a matter those Court's already set standards for. The key difference in this matter is that it pertains to an Arbitration sold through the US Bankruptcy Programs Chapter-7 Liquidation Process.

It also pertains to the enforcement of the Sale Orders from the US Bankruptcy Court or their being properly set aside if they are deemed to be unenforceable based on Bankruptcy Court error.

We seek this petition of Certiorari here for both of these matters.

History

In 2001 the petitioners company (CertifiedTime), DEBTOR) was forced into Bankruptcy by the filing of documents by its president with the Bankruptcy Court seeking the protection of the Federal Stay.

The petitioner, a Board of Director's member of the DEBTOR asserts that none of the precursory meetings or shareholder votes ever occurred and that the actual filing of the Bankruptcy Petition was an act of fraud used to protect corporate officers from an act they committed which was the licensing of the Petitioner's personal Intellectual Properties to defendant AMANO without the agreed upon compensation.

Throughout the Bankruptcy the US Attorney and the US Trustee declined to formally review evidence in this matter, as did the FBI who reported "that due to an internal policy, they can only take notice of fraud from the US Trustee or Private Trustee in a Chapter-7 Bankruptcy"

US Private Trustees role in the Bankruptcy

It is exactly that party we believe is the problem (that being the Private trustee's Counsel, and we have asked them numerous times about whether they represent AMANO Corporation, a question they now formally refuse to answer as the 341 and ongoing conflict-discovery mandates require.

Apparently the listed Private Trustee was also changed in this bankruptcy, as it appears that the named Counsel to the Private Trustee is not the assigned one in the Order to Employ Counsel and this is documented in the appendices.

The Sale Order Document for instance lists a different party as the Private Trustee's than Suzanne Decker Esq and her Attorney Barry Milgrom of Luce Forward. The US Trustee never communicated any reasons for changing the party managing the processing within the DEBTOR's Bankruptcy and in doing so has caused a serious as to the larger credibility of the US Bankruptcy Program operating out of the San Jose California facilities, nor were the members of the Estate allowed to object to this change creating yet another procedural problem with the DEBTOR's Bankruptcy.

The Sale Order for instance issued late in the Proceedings lists a different party as the Private Trustee than

Suzanne Decker Esq and her attorney, Barry Milgrom Esq of Luce Forward Inc. The US Trustee never communicated any reasons for changing the party managing the processing within the Debtor's Bankruptcy and in doing so has caused serious concern as to the larger credibility of the US Bankruptcy Program operating out of San Jose California, nor were the members of the Estate allowed to object to this change either creating yet another procedural problem with the DEBTORS bankruptcy.

The reason this was important is that the ownership to the Intellectual Property the company was built on was being challenged at that time in the California Superior Court with an immediate injunction being requested against its use by the Company. The Plaintiff here was the Petitioner herein, and he owned the use of the Debtor's key property at the time the Bankruptcy was filed by Defendant's WILLIAMS and GOLDBERG who had already sold the use of that IP to AMANO Corporation for a period of three years without compensating the Petitioner. This simply was a matter of theft of private property and the use of the Bankruptcy Process to avoid criminal liability for the sale of property not owned by the Estate to a foreign national of another Country for use inside their Government.

This DEBTOR (which the Petitioner was trying to restart) was built around the Petitioner's "National Timing Model" architecture and provided a competent model for deploying NIST-calibrated electronic time data throughout a computer network, something that Court's are now embracing as the key to admissibility in computer records, and so something of great importance in our culture today. This was licensed by the DEBTOR

but never paid for and resold to Defendant AMANO who used it for years without compensation to the Petitioner. That use ended in 2004 with the filing and execution of a Civil Arbitration under the laws of the State of California which was compulsory in nature.

When the corporate bankruptcy paperwork was filed...

The actual filing of the Bankruptcy by WILLIAMS et Al[2] in late August 2001 made no sense since the company had enough money to run on while Defendant Amano completed its acceptance testing which would trigger any number of financing options. The fact that the property frauds which are still being withheld, brings into applicability the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and its zero-tolerance of Bankruptcy Frauds.

The most noteworthy change brought by the 2005 BAPCPA amendments occurred within 11 U.S.C. § 707(b). Congress amended this section of the Bankruptcy Code to provide for the dismissal or conversion of a Chapter 7 case upon a finding of "abuse" by an individual debtor (or married couple) with "primarily consumer debt".

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[2] The filing of the Bankruptcy was perpetrated by a release which fraudulently claims a board meeting took place and a common-shareholder meeting also took place, and at each a vote was taken. Neither meeting nor vote took place in any form making the assertion that they did a matter of alleged bankruptcy fraud.

Estates Property was withheld by WILLIAMS, AMANO et Al

Another issue this petition for certiorari pertains to is that none of this Bankruptcy's (i.e. DEBTOR's) software[3] or hardware[4] was ever recovered although the parties who 'retained it' were properly identified through the records discovered through eDiscovery in that limited Arbitration held by the Petitioner.

No Court has allowed the formal review of that evidence to document the property's existence and order its return.

AMANO's admission of acts which qualify as fraud

What was found in that discovery and later confirmed in sworn testimony was that one of the Debtor's key customer/partner's seized the data center they operated for the Debtor and made all the materials in that data center vanish except for a limited amount of 'specialized computers' and Atomic Clocks which were withheld and never returned[5]. This 'partner' of the Estate was Amano Corporation and its seizure of the data center finally

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3 This included all forms of Operating System and Appliance-Device software including Oracle Database Management Systems (at $10K/ea) as well as all of the Contracted or in-house developed code.

4 All of the NIST time servers were purchased from NIST, meaning that they were not like the public US Systems as they were private property.

5 The seized equipment in Tokyo was provided to the Government of Japan by Amano's own statement and NIST operated a time-base service under CRADA 1681 on the technology that they built for CRADA 1681. The seizure and withholding and turn-over or operations of the service for the Government of Japan also constitutes a Foreign Corrupt Practices Act violation under §707(b) & 15 U.S.C. 78dd-1.

drove the Debtor into Bankruptcy such that it would be impossible to meet the terms of the contract.

ARBITRATOR'S exclusions

By action of the Arbitrator, the arbitration specifically excluded that fact of life from the ruling because it only pertained to the Bankruptcy and not the underlying performance on the contract, but without Federal Law under California Law there is no basic structure and no International Trade meaning no commerce with Japan.

> We compared this to the Supreme Court ruling in Prima Paint. The *Prima Paint* Court found the issue of fraud in the inducement was an issue that ran to the making of the entire contract and therefore an issue to be resolved by an arbitrator. An issue our Arbitrator refused to address and claimed beyond the Jurisdiction of the California Arbitration Act.
>
> The Florida State Supreme Court accepted the argument that because the contract in *Buckeye* was distinguishable from the one in *Prima Paint* and because the issue of the legal status of the contract involved interpreting state law, the issue of the contract's validity should be determined by the judiciary. The court concluded:
>
> In other words, there are no severable, or salvageable, parts of a contract found illegal and void under Florida law. Judge Sharp's observation in *Party Yards, Inc.*, that a contrary holding would lead to an absurd result is right on point. We do not believe

> federal arbitration law was ever intended to be used as a means of overruling state substantive law on the legality of contracts. (894 So. 2d at 865)

Buckeye and other Supreme Court Standards

Under the assumption that the Arbitration is a civil proceeding and not competent to adjudicate criminal matters under the law it is our assertion that the Arbitrator should have referred the matter back to the American Arbitration Association for review as to whether a Federal Court or at the least since the Federal Government itself sold the Contract to the Petitioner whether a Federal Arbitration Act based proceeding was necessary[6].

The *Baker v. Morton*, 79 U.S. 150 (1870) case also is worth reviewing and pertains to the conversion of the property, which is further controlled in Supreme Court standards like Isaac v. Hobbs with regard to the Arbitration and its requirements for addressing Federal issues arising from the Sale of that Contract and goods from the US Government to the Petitioner[7].

The same question exists for what to do when a civil arbitration proceedings are contaminated by an ongoing or unprosecuted fraud or other illegal act.

Property Withheld

The property withheld against §152 of the Bankruptcy Code included those devices (Computers, atomic clocks, and other devices) and software including oracle

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6 *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440 (2006).

7 Pertains to property sold by the Government to a private citizen.

databases as well as the systems software and the user-applications which ran on top of them.
All told it contains some $1.2M worth of software and systems which 'evaporated in the filing of the Debtor's Bankruptcy' based on what evidence we have accrued from Defendants Amano, NIST, and Blueslate.

The District Court dismissed all recovery efforts against all parties without review by claiming that previous settlement with WILLIAMS prevents claims against unrelated parties like BLUESLATE, WOOD, BARNETT and RIATI for their withholding of property.

That ruling from the District Court effectively eliminated all of the criminal aspects of these matters which would force the return of the property and functionally invalidated the sale of the property from the Bankruptcy Court to the Petitioner.

The civil releases provide in some cases, if they are ruled effective, that there is to be no civil damage recovery but that doesn't pertain to the US Government it also doesn't pertain to damages which are from a criminal act which the petitioner remains a victim of.

To cure the Fraud the property must be returned to the Estate

The properties must be returned to the DEBTOR's Estate to be turned over by the Estate to the purchaser of them regardless of whether there is a civil release between WILLIAMS and HUDSON/GOLDBERG or not otherwise the sale of property out of a Bankruptcy Hearing can be used to set-aside criminal provisions of the withholding of that property.

The responsibility exists between the Bankruptcy Estate and the Bankruptcy Program to resolve the criminal withholding of property based on releases we describe as extorted prior to the purchase of that property.

Today the cost of replacing that system today would range in the $2m to $3m USD range to establish a value for that property sold to the Petitioner from the US Bankruptcy Court. Likewise all of the ongoing licensing revenue from that IP was lost as well based on the ruling of the Arbitrator that the 'system was not contractually accepted by AMANO'. The problem is that possession is the issue, and Amano's possession and conversion of that property to its own to service the Japan Government's use of the US Timebase is in fact the issue here we are litigating.

District Court Review

After the Amano arbitration which was enabled by the sale of the Amano Contract from the Debtor's Estate to the Petitioner, the matter was submitted to the US District Court for review of the Amano Arbitration and its irregularities, and the actions of property duress on the part of WILLIAMS and HUDSON/GOLDBERG and separate property withholding claims against respondent AMANO and BLUESLATE. Additionally the Petitioner sought review of the NIST agreement purchased from the Bankruptcy Estate to define its scope and what it contained, particularly into what CRADA 1681 contained since the description of the service is missing from the CRADA Documentation File in NIST's master CRADA library. .

In all instances District Court dismissed saying previous settlements or litigation precluded review under the

broadest of conditions when specific exemptions for those conditions existed.

But the District Court's dismissal in regard to the Arbitration held between the Petitioner and Defendant Amano Corp was that it eliminated all other litigation against Amano. The problem with that was that there are no ways to arbitrate Bankruptcy Fraud and Property Claims against anyone under an action limited to the California Arbitration Act so it begs the question whether the sale of that contract from the Bankruptcy Estate invoked the Federal Arbitration Act then since the contract itself was between the US Government and the Provider under the Bankruptcy Statute itself[8].

Likewise the District Court dismissed claiming that the release between the petitioner and the WILLIAMS

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[8] See also Berglund relative to the sale of the arbitration right to the Petitioner. Under CalSupCt's *Berglund v. Arthroscopic & Laser Surgery Center of San Diego* (No. D045218) 2006 Cal. App. LEXIS 766 (May 22, 2006), the Petitioner was entitled to exactly that judicial review of the scope of the Arbitration and the Arbitrators action in discovery and in implementing the scope of the contract between the parties –

> An additional issue is whether judicial review of an arbitrator's discovery decisions addressed to nonparties to an arbitration agreement is limited to the same extent as discovery decisions addressed to parties to an arbitration agreement. Courts have held that parties to an arbitration agreement may not, except on severely circumscribed grounds, challenge arbitral decisions in judicial proceedings. This strict limitation on judicial review of arbitral decisions is based on the consideration that parties to an arbitration agreement expect, in return for foregoing their right to full judicial review, they will receive a prompt and final disposition of their disputes. However, the severe limitation on judicial review of arbitral decisions may only be imposed on those who have voluntarily agreed to have their disputes arbitrated or who have some relationship with one of the parties to the arbitration agreement. (§ 1283.05, subd. (d).)

HUDSON/GOLDBERG defendants was satisfied by a previous settlement. Our reply to the Court in our petition for rehearing was that we asserted that it was the settlement itself that we were challenging in that we were told 'through channels' that we would not be allowed to recover the property unless we agreed to the settlement[9] [10]. As such the Petitioner sought a property-duress rescission on the settlement and a review of the settlement itself by the Court per California and other standards[11].

The District Court again dismissed without hearing that claim. And also against those other parties we had identified as in possession of the property sold to us by the Court.

In this matter the withholding of the property of the Estate of the DEBTOR is the property for which duress was abused to force the Petitioner to execute a release for which they never intended to comply with the law requiring the return of the Debtor's property. This property also contained IP and physical properties allegedly that of the Petitioner's and for which the

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9 See California Property Duress Statute – Cal Code §1689

10 *Fuller v. Roberts*, 35 Fla. 110, 17 South 359 (1895); *Lonergan v. Buford*, 148 U.S. 581, 13 Sup.Ct. 684, 37 L.Ed. 569 (1893). Duress of goods may exist when one is compelled to submit to an illegal exaction in order to obtain them from one who has them but refuses to surrender them unless the exaction is endured.

11 *Pride v. Baker* (Tenn.Ch.App.) 64 S.W. 329 (1901); *Collins v. Westbury*, 2 Bay (S.C.) 211, 1 Am.Dec. 643 Duress means a condition of mind produced by improper external pressure or influence that practically destroys the free agency of the party and causes him to do an act or make a contract not of his own volition, but under such wrongful external pressure, and it is to be determined by all the attendant facts and circumstances.

DEBTOR under WILLIAMS and HUDSON/GOLDBERG intentionally listed as property of the DEBTOR in the Estate's Property and Asset Schedules. It is that action that the Petitioner's claims before the US Bankruptcy Court were stopped without review erroneously. The District Court's dismissal without hearing of that claim insured the 5th Amendment conversion of the Petitioner's property would continue[12].

Reasons for Granting the Writ

We believe that the dismissal of these rulings and the referral of this matter to the lower courts for proper resolution will set aside local precedents which may have far reaching implications with regard to Supreme Court rulings and those in other Circuit Courts. Especially those pertaining to Arbitrations from rights purchased from the US Government in some Bankruptcy Proceeding. This also in the case of the Arbitration pertains to the already in place California Appellate Ruling in Berglund which documents the Petitioner's right to Court Review of the Arbitration, and its Scope per the precedent set at the State Level regarding review of the actions under California's Arbitration Act.

The granting of this petition will allow the Supreme Court to clear up some misconceptions about the limits of civil arbitrations and what happens to civil proceedings when criminal or other fraud influences are discovered through those Arbitration's proceedings.

It will also allow the reinstatement and advancement of the petitions before the District Court to review the

---

[12] Pertains to WILLIAMS listing Petitioner's Intellectual Properties as 'Properties of the Estate' when he filed the US Bankruptcy for the Debtor.

underlying claims of Bankruptcy Fraud in the filing of Debtor's Bankruptcy and to allow the final recovery of property sold to the Petitioner from the US Bankruptcy Program.

Conclusion

The questions of what Arbitrations can be used for and what must happen when civil procedures are contaminated by frauds or other ongoing crimes is key to insuring that Arbitrations are not used to prevent legitimate access to the Courts.

Further the California Supreme Court ruling in Berglund invalidates any dismissal under a res Judicata claim by Amano and should send that matter back to the District Court for review of the Arbitration and the underlying claims of Bankruptcy Fraud against AMANO;

In doing so this Court should also direct the question of whether the WILLIAMS and HUDSON/GOLDBERG release was obtained under property duress or not and whether a civil agreement can negate criminal responsibility.

Without the action of the US Supreme Court this wrong will remain and US Bankruptcy Law will be significantly weakened in allowing these ongoing frauds to go un-adjudicated.

// TSG

Todd S. Glassey In *Pro Se*
50 W. San Fernando St, Suite 320
San Jose CA, 95113
408-318-6551

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[DATE STAMP]
FILED
OCT 03 2008
MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS

TODD GLASSEY,
Plaintiff - Appellant,

V.

No. 06-16758
D.C. No. CV-05-01604-RMW
Northern District of California,
San Jose
MANDATE

AMANO CORPORATION;
HUDSON VENTURE PARTNERS, LP;
JAY GOLDBERG; NATIONAL INSTITUTE
OF STANDARDS AND TECHNOLOGIES
US Department of Commerce; MARK WILLIAMS;
A. FRANCIS ACKER,
Defendants - Appellees.

The judgment of this Court, entered 9/19/08, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Gabriela Van Allen
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[DATE STAMP]
FILED
SEP 19 2008
MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS

TODD GLASSEY,
Plaintiff - Appellant,

V.

No. 06-16758
D.C. No. CV-05-01604-RMW
Northern District of California,
San Jose
ORDER

AMANO CORPORATION; et al.,
Defendants - Appellees.

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en bane and no judge has requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en bane are denied.

No further filings will be accepted in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[DATE STAMP]
FILED
JUL 10 2008
MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS

TODD GLASSEY,
Plaintiff - Appellant

v.

No. 06-16758
D.C. No. CV -05-0 1604-RMW
MEMORANDUM*

AMANO CORPORATION; et al.,
Defendants - Appellees

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding

Submitted July 1, 2008**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

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*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

**The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Todd Glassey appeals pro se from the district court's judgment in favor of defendants in his action alleging bankruptcy fraud and various state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion a dismissal under Federal Rule of Civil Procedure 41(b), *Ferdik v. Bonzelet*, 963 F .2d 1258, 1260 (9th Cir. 1992), and review de novo a grant of summary judgment, *Stratosphere Litig. L.L.C. v. Grand Casinos, Inc.*, 298 F.3d 1137, 1142 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing Glassey's claim against the National Institute of Standards and Technologies for return of property because Glassey failed to amend the operative complaint or indicate that he would not do so after the district court provided him with two opportunities to amend and advised him that judgment would be entered if he failed to amend by the deadline. *See Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004); *see also Ferdik*, 963 F.2d at 1260-63 (addressing factors to consider in determining whether a district court abuses its discretion by dismissing an action under Rule 41(b)).

The district court properly granted summary judgment to Amano Corporation under the doctrine of res judicata because the undisputed evidence establishes that Glassey's claims against Amano involve the same cause of action that was arbitrated between these parties, and the arbitration was confirmed in a final judgment on the merits. *See Intros-Plex Tech., Inc. v. Crest Group, Inc.*, 499 F .3d 1048, 1052 (9th Cir. 2007) (applying state law to

determine the preclusive effect of a state court judgment); *Theobald v. Carum,* 6 Cal. Rper. 2d 27, 29-30 (Ct. App. 1992) (explaining that res judicata prohibits litigation between parties of "all matters within the scope of [a previous] arbitration, related to the subject matter, and relevant to the issues").

The district court properly granted summary judgment to Jay Goldberg, Hudson Venture Partners, LP, and Mark Williams because the undisputed evidence establishes that Glassey's claims are barred by the release in the parties' settlement agreement. *See Marder v. Lopez,* 450 F.3d 445, 449-50 (9th Cir. 2006) (analyzing release governed by California law).

We do not consider Glassey's arguments raised for the first time on appeal. *See Campbell v. Burt,* 141 F.3d 927, 931 (9th Cir. 1998).

Glassey's remaining contentions are unpersuasive.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF CALIFORNIA
SAN JOSE DIVISION

E-FILED on 3/31/06

TODD S. GLASSEY,
Plaintiff,

v. No. C-05-01604 RMW

AMANO CORPORATION; MARK WILLIAMS; HUDSON VENTURE PARTNERS, L.P.; JAY GOLDBERG; THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGIES; and A. FRANCIS ACKER;
Defendants.

ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS AND GRANTING SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS WITH LEAVE TO AMEND AS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGIES & ORDER ON ALL OTHER PENDING MOTIONS

[Re Docket Nos. 8, 11, 13, 17, 18, 23, 34, 37, 39, 40, 41, 48, 50, 53, 54, 56, 65, 66, 71, 72, 75, 76, 77, 78, 79, 80, 81, 89, 101, 125]

Todd S. Glassey has filed suit against multiple defendants for claims allegedly arising from the

bankruptcy of his former employer, CertifiedTime, Inc. The defendants have moved to dismiss on multiple grounds. For the reasons given below, the court will grant all the defendants' motions.

I. PRELIMINARY MATTERS

The parties have submitted voluminous records to the court. Since both sides have made extensive references to this evidence in connection with the motions to dismiss under Rule[1] 12(b)(6), the court accepts this evidence and will treat the motions to dismiss of Amano Corporation, Mark Williams, Jay Goldberg, and Hudson Venture Partners, L.P., as motions for summary judgment under Rule 56, as allowed by Rule 12(b). The court will also treat the motion to dismiss the breach-of-contract claim by the National Institute of Standards and Technologies ("NIST") as one for summary judgment.

The court also takes judicial notice of the prior proceedings between these parties, both those before the bankruptcy court and the California Superior Court. A federal court "may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue." *See United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992). It will become apparent in the course of this order that

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[1]All references to a "Rule" are to a Federal Rule of Civil Procedure.

the parties' prior proceedings relate directly to Glassey's current action.

II. LITIGATION HISTORY

CertifiedTime was formed in 1999. 2d Am. Compl. ¶ 10. Its purpose was to develop a commercial internet timing service. *Id.* ¶¶ 10-12. Glassey, Francis Acker, Williams, and Goldberg were all involved in CertifiedTime. *Id.* ¶¶ 10, 14-15. Goldberg was also a principal of Hudson; Hudson invested in CertifiedTime. *Id.* ¶ 15-16.

In early 2000, CertifiedTime entered into a contract entitled "Cooperative Research & Development Agreement" with NIST. See St. Angelo Decl., Ex. A ("CRADA") at 1, 9. Glassey was listed as CertifiedTime's "Principal Investigator" for purposes of the contract. *Id.* at 12. The purpose of the contract was for NIST and CertifiedTime to "study[ ] secure methods of time-data distribution offering the greatest precision across open networks such as the Internet and across closed networks adjoining the Internet such as are common in the commercial sector." *Id.* at 13.

On May 21, 2001, Todd Glassey sued Hudson, Goldberg, Williams, and CertifiedTime in the California Superior Court. Makris Decl. ¶ 3. CertifiedTime filed for bankruptcy, and Glassey's action was removed to federal court and consolidated with CertifiedTime's bankruptcy proceeding. *Id.* Glassey's third amended complaint in his first

adversarial bankruptcy proceeding[2] contained claims against Hudson, Goldberg, and Williams for violations of the California Corporations Code, fraud and concealment, tortious interference with prospective economic advantage, and violations of California Business and Professions Code § 17200. Makris Decl., Ex. A.

On May 13, 2002, Glassey agreed to accept $65,000 from Hudson, Goldberg, and Williams in exchange for a release of all claims against them. *Id.* ¶ 4. Under the terms of this release, Glassey gave up "all claims of every nature . . . whether known or unknown and whether suspected or unsuspected, existing" at that time. *Id.*, Ex. B. (Settlement Agreement at 2). The release specifically mentioned

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[2]Glassey filed a total of four adversary proceedings in connection with CertifiedTime's bankruptcy, No. 01-54207-MM: (1) Glassey v. CertifiedTime, Inc., Adv. Proc. No. 01-5317; (2) Glassey v. CertifiedTime, Inc., Adv. Proc. No. 02-5491; (3) Glassey v. Amano Corp., Adv. Proc. No. 04-5142; and (4) Glassey v. Amano Corp., Adv. Proc. No. 04-5532. The bankruptcy court dismissed the first with leave to amend twice, and the court dismissed the matter with prejudice pursuant to stipulation on May 28, 2002. See Adv. Proc. No. 01-5317, Docket entries for 12/14/2001, 1/11/2002, 5/28/2002. Glassey's second adversary proceeding was dismissed for lack of prosecution on August 22, 2003. See Adv. Proc. No. 02-5491, Docket entry for 8/22/2003. The bankruptcy court dismissed the third case pursuant to stipulation on August 31, 2004. See Adv. Proc. No. 04-5142, docket entry 8/31/2004. (This third case involved minor proceedings in the district court as case No. C-04-02522 J.) The bankruptcy court dismissed Glassey's complaint in the fourth case for lack of subject-matter jurisdiction on March 22, 2005. See Adv. Proc. No. 04-5532, Mem. Decision (Mar. 22, 2005); see also Makris Decl., Ex. E.

that Glassey was surrendering "all claims against" Hudson, Goldberg, and Williams "arising out of or in connection with any claims or assets which [Glassey] acquired or could have acquired from the Trustee in Bankruptcy for CertifiedTime, Inc.," and "all claims in any way related to . . . CertifiedTime, Inc.," or Hudson, Goldberg, and Williams's "roles as investors, officers, directors[,] employees or agents of CertifiedTime, Inc." *Id.* Pursuant to the release, the signatories stipulated to a dismissal with prejudice of Glassey's action in the bankruptcy court, and on May 28, 2002, Judge Marilyn Morgan ordered Glassey's action dismissed on that basis. Adv. Proc. No. 01-5317, Docket entry for 5/28/2002.

Around a year later, Glassey purchased certain assets, including the rights under a contract between CertifiedTime and Amano Corporation, from the CertifiedTime bankruptcy estate. *See* Yoo Decl., Ex. C (Notice of Tr.'s Intent to Sell at 1). As part of this transaction, he agreed to surrender all claims against the bankruptcy trustee and the estate. *Id.* The bankruptcy court approved the sale on May 22, 2003. No. 01-54207, Docket entry for 5/22/2003.

On July 15, 2003, Glassey demanded arbitration (as required by the contract between CertifiedTime and Amano) to resolve ownership of assets connected to CertifiedTime. *See* Yoo Decl., Ex. F. Glassey claimed that he was entitled to certain assets of CertifiedTime controlled by Amano because he had purchased them from the bankruptcy trustee. *Id.* In November 2004, Glassey filed another

complaint against Amano, Williams, Hudson, Goldberg, and NIST in CertifiedTime's then still-pending bankruptcy. Adv. Proc. No. 04-5532, Docket entry for 11/18/2004; *see also* Makris Decl., Ex. D. On December 1, 2004, the arbitration ended wholly in favor of Amano, and the arbitrator awarded Amano over $400,000. Yoo Decl., Ex. C. A final decree in CertifiedTime's bankruptcy issued on December 28, 2004. No. 01-54207, Docket entry for 12/28/2004. The bankruptcy court found Glassey's action against Amano, Williams, Hudson, Goldberg, and NIST was not a core proceeding and dismissed it as outside the jurisdiction of the bankruptcy courts. Yoo Decl., Ex. E.

On March 16, 2005, Amano filed suit in San Francisco Superior Court to confirm its arbitration award against Glassey. *In re Amano Corp.*, CPF-05-505101 (Pet.). Glassey filed his initial complaint in his present suit before this court on April 19, 2005. On April 29, Glassey moved in this court for an order to vacate or stay the superior court action, which was not granted. Glassey pointed out to this court the standards for removing a case, but does not appear to have filed a notice of removal in the superior court. The day before the decisive hearing in the superior court, Glassey filed a motion to vacate or stay proceedings there pending the outcome of this federal case; that motion was not granted. *See* CPF-05-505101, Docket entry for 5/10/2005. On May 11, 2005, Judge James Warren of the superior court confirmed Amano's arbitration award and added interest and Amano's additional attorneys' fees to the award against Glassey. *Id.*,

Docket entries for 5/11/2005; Yoo Decl., Ex. D. On August 1, 2005, Glassey filed a notice of removal in this court; by that time, the superior court case was closed.

In this case, Glassey has amended his complaint twice.[3] His complaint contains the

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[3]The defendants' motions to dismiss were initially set for hearing on October 28, 2005. Two days before the hearing date, the parties stipulated to continue the hearing until December 16, 2005, because Glassey had become unexpectedly unavailable on October 28. Between November 7 and December 5, 2005, Glassey made numerous filings. Two of these filings purported to be further amendments to Glassey's second amended complaint, adding a new claim against Amano and adding Agilent Financial, Symmetricon Inc., Blueslate Solutions, David B. Wood, Richard Barnett, and Joe Raiti as defendants. Glassey did not move for leave to further amend his complaint before filing these latest two amendments (nor are they in compliance with Civil L.R. 10-1).

Ninth Circuit case law on amending complaints states that

> [a]fter a party has amended a pleading once as a matter of course, it may only amend further after obtaining leave of the court, or by consent of the adverse party. Generally, Rule 15 advises the court that leave shall be freely given when justice so requires. This policy is to be applied with extreme liberality. . . [T]he Supreme Court offered the following factors a district court should consider in deciding whether to grant leave to amend: In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice

following causes of action: bankruptcy fraud, 18 U.S.C. §§ 137, 152; misrepresentation of bankruptcy assets, 18 U.S.C. § 152; fraudulent failure to turn over bankruptcy estate assets, 11 U.S.C. § 542; fraudulent concealment of bankruptcy estate property, 11 U.S.C. § 542, 18 U.S.C. § 1431; filing of wrongful bankruptcy claims, 18 U.S.C. § 152; state-law breach of contract; state law tortious interference with economic advantage; unfair business practices, Cal. Bus. & Prof. Code § 17200; and state-law violation of fiduciary duties. Currently before the court are the motions to dismiss of defendants Amano, Williams, Hudson, Goldberg, and NIST.

III. ANALYSIS OF THE MOTIONS TO DISMISS

A. Jurisdiction

Rule 8(a)(1) requires a complaint to contain "a short and plaint statement of the grounds upon

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> to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be freely given.

Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1050-51 (9th Cir. 2003) (citations and quotation marks omitted). The court will not grant Glassey leave to amend his complaint at this late stage of the proceedings. Glassey delayed the hearing on the defendants' motions to dismiss on October 28, 2005, and it would be unjust to allow him to use the additional time to alter his complaint. An amendment of Glassey's complaint at this juncture would cause undue delay, as the defendants began filing motions to dismiss in July 2005.

which the court's jurisdiction depends." Glassey's complaint sets forth no jurisdictional basis for his claims. Defendants Amano, Hudson, and Goldberg argue that Glassey's failure to plead a basis for jurisdiction requires dismissal of his claims.[4]

The rule is this circuit is clear. So long as facts giving the court jurisdiction are set forth in the complaint, the provision conferring jurisdiction need not be specifically pleaded. *Williams v. United States,* 405 F.2d 951, 954 (9th Cir. 1969); *Aguirre v. Auto. Teamsters,* 633 F.2d 168, 174 (9th Cir. 1980). Plaintiff not only alleges facts which give rise to federal question jurisdiction, but also specifically alleges several federal causes of action. It is obvious that this court has jurisdiction under 28 U.S.C. §§ 1331, 1367(a).

B. Glassey's Standing to Assert Bankruptcy Fraud Claims

Private parties generally lack standing to enforce federal criminal statutes. Title 18 of the United States Code covers "Crimes and Criminal

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[4]On page 4 of their motion to dismiss, defendants Hudson and Goldberg assert that "[i]f the complaint fails to allege a basis for jurisdiction, it must be dismissed. *Thornhill Publishing Co. v. General Tel. & Elect.*, 594 F.2d 730, 733 (9th Cir. 1979)." Amano's motion to dismiss contains exactly the same misstatement (also on page 4). *Thornhill* does not deal with the issue of whether a complaint must allege jurisdiction and instead focuses on whether the plaintiff established that there was a genuine issue of fact as to whether its intrastate activities substantially affected interstate commerce.

Procedure;" violations of provisions of specific sections of title 18 are typically prosecuted by the U.S. Attorney's offices.

Glassey seeks to enforce three sections of Title 18: sections 137, 152, and 1431.[5] (Congress specifically gave responsibility for enforcing 18 U.S.C. § 152 to the U.S. Attorneys and the Federal Bureau of Investigation. See 18 U.S.C. § 158.) The other two sections Glassey cites, 18 U.S.C. §§ 137 and 1431, do not exist. Glassey lacks standing to enforce any cause of action based on Title 18 that he has alleged. (Glassey himself seems to admit as much, stating that "The US Attorney notices the Court that PLAINTIFF lacks standing to bring a Criminal Prosecution against the DEFENDANTS in this matter, and he is correct . . ." Docket # 100 ¶ 19.) All Glassey's claims under Title 18 are therefore claims for which he cannot be granted relief.[6]

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[5]There is no 18 U.S.C. § 1431. Reversing the digits of the cited section results in "1341." Title 18 U.S.C. § 1341 prohibits mail fraud. The general discussion of Glassey's lack of standing to enforce criminal statutes would be equally applicable to this criminal mail fraud statute.

[6]Title 18 U.S.C. § 3057(a) states "Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so." The court will take any action

C. Defenses Specific to Agencies of the Federal Government

1. Glassey's tort claims against NIST

Defendant NIST argues that plaintiff's claims are barred by the Federal Tort Claims Act ("FTCA") (codified at 28 U.S.C. §§ 1346(b), 1402(b), 2401(b), 2402, 2671-80). The FTCA limits the scope of suits against a federal agency by providing that "[t]he authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under 28 U.S.C. § 1346(b)." 28 U.S.C. § 2679(a). Thus, if a suit is cognizable under § 1346(b), "the FTCA remedy is exclusive and the federal agency cannot be sued in its own name." *FDIC v. Mayer*, 510 U.S. 471, 476 (1983). Plaintiff, however, asserts that he is not bringing any tort claims against NIST. Docket # 82 at 10-11. This court will take Glassey at his word that he is not alleging any tort causes of action against NIST.[7]

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it deems appropriate under this section, though Glassey lacks standing to pursue any such action himself.

[7]To the extent that plaintiff may have brought causes of action in tort, defendant NIST's motion to dismiss would be granted since plaintiff incorrectly named NIST as defendant. In addition, plaintiff has failed to allege that he met the administrative claim requirements of the FTCA. Before a claimant may bring an action against the United States for money damages for injury or loss of property, the claimant must present the claim to the appropriate agency and must either receive a conclusive denial of the claim from the agency or wait for six

2. Glassey's 11 U.S.C. § 542 claims against NIST

Glassey alleges NIST violated 11 U.S.C. § 542 by fraudulently failing to turn over bankruptcy estate assets and concealing estate property. 2d Amd. Compl. ¶¶ 35-39. Plaintiff specifically states he is only seeking enforcement of U.S. bankruptcy law and recovery of his property. Docket # 82 at 10-11.

Title 11 § 542 generally requires an entity in possession of property from which the trustee of a debtor in a bankruptcy proceeding may derive benefit to turn over such property or its value. 11 U.S.C. § 542(a). Property of the estate is defined as all legal and equitable interests of the debtor in property at the commencement of the bankruptcy case. 11 U.S.C. § 541(a). As such, turnover is not intended as a remedy to determine disputed rights of parties to property; rather, it is intended to obtain what is acknowledged to belong to the bankruptcy estate. *See In re Gallucci*, 931 F.2d 738, 741 (11th Cir. 1991).

NIST argues that Glassy cannot assert a cause of action against it under § 542 for numerous reasons. The court agrees. The exception to the

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months to elapse without a final disposition. *See* 28 U.S.C. § 2765(a); *Caton v. United States*, 495 F.2d 635, 638 (9th Cir. 1974). The failure to file an administrative claim is a non-waiveable jurisdictional defect. *See Jerves v. United States*, 966 F.2d 517, 519 (9th Cir. 1992).

FTCA's waiver of sovereign immunity prevents this court from exercising jurisdiction over any fraud claim by Glassey against NIST. *See* 28 U.S.C. § 2680(h); *Owyhee Grazing Ass'n, Inc. v. Field*, 637 F.2d 694, 697 (9th Cir. 1981) ("[C]laims against the United States for fraud or misrepresentation by a federal officer are absolutely barred by 28 U.S.C. § 2680(h).").

Furthermore, Glassey cannot base any § 542 claims against NIST on the contract between NIST and CertifiedTime. The FTCA does not allow any sort of suit against the United States for interference with contract rights. *See* 28 U.S.C. § 2680(h); *Art Metal-U.S.A., Inc. v. United States,* 753 F.2d 1151, 1154-55 (D.C. Cir. 1985); *Dupreee v. United States*, 264 F.2d 140, 143-44 (3d Cir. 1959). Glassey has not shown this court any exception to the FTCA that allows him to bring these claims against NIST, and the court is not aware of one.[8]

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[8]Even if NIST did turn property over to the bankruptcy estate, the court does not see how this would benefit Glassey. Glassey has released all claims against the bankruptcy estate of CertifiedTime, so any property received by CertifiedTime would be unreachable by Glassey. Though Glassey styles himself as the successor to CertifiedTime, he was instead a creditor. The Supreme Court has recognized that a party must satisfy three minimum constitutional requirements in order to have standing to sue: (1) injury in fact; (2) causal causation between that injury and the conduct of defendant; and (3) likelihood that a favorable decision would redress the injury. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992). Glassey has failed to meet the third requirement under *Lujan* since any recovery based on § 542 would have to go to the estate of CertifiedTime and could not benefit him.

The court will dismiss Glassey's § 542 claims against NIST.

3. Glassey's state-law breach of contract claim against NIST

Glassey asserts that NIST has breached the contract between CertifiedTime and NIST, and that he, as the "successor" to CertifiedTime, may enforce the contract against NIST. NIST counters that Glassey lacks standing to enforce any contract rights against NIST, because, among other reasons, the contract expired before Glassey obtained any assets from CertifiedTime's bankruptcy estate. NIST also argues that this court lacks subject-matter jurisdiction over Glassey's breach-of-contract claim.

Glassey could not seek more than $10,000 in damages for breach of a contract by NIST because district courts generally have jurisdiction over a "civil action or claim against the United States, not exceeding $10,000 in amount, founded . . . upon any express or implied contract with the United States." 28 U.S.C. § 1346(a)(2). Glassey, however, apparently seeks only injunctive relief against NIST; the prayer for relief of his operative complaint discusses the return of property allegedly held by NIST. See 2d Am. Compl. at 21. The court is unable to figure out what property belonging to Glassey is allegedly being retained by NIST. Is it property created or purchased by NIST or is it property belonging to Glassey that was used during the CRADA?

The dispute-resolution provision of the

CRADA appears to entitle NIST to summary judgment. Under section 10.1 of the agreement:

> Any dispute arising under this Agreement which is not disposed of by agreement of the Parties shall be submitted jointly to the signatories of this Agreement. A joint decision of the signatories or their designees shall be the disposition of such dispute. If the Parties cannot reach a joint decision, either Party may terminate this Agreement immediately.

CRADA at 6. NIST is correct that, effectively, "cancellation of the CRADA was the only remedy available to either party in the event of a dispute." Docket # 66 at 10. Assuming for the sake of argument that Glassey obtained any rights under the CRADA, his sole remedy under the contract is the process described above. The court will therefore grant NIST summary judgment on Glassey's breach-of-contract claim. If, however, Glassey is claiming that NIST is retaining some property that he gave NIST possession of during the existence of the CRADA, he may file an amended complaint to clearly so state.

D. Res Judicata

As the late Charles Alan Wright noted, "Courts today are having difficulty giving a litigant one day in court. To allow that litigant a second day is a luxury that cannot be afforded." *Law of Federal*

Courts § 100A (6th ed. 2002). Res judicata serves to "relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage reliance on adjudication." *Allen v. McCurry,* 449 U.S. 90, 94 (1980). While judges would perhaps prefer solutions that made both sides happy, situations in which there is a mutually-agreeable solution rarely end up in court. Thus, in many disputes decided in court, one side loses. The parties must accept this and move on, rather than becoming enmeshed in a never-ending cycle of litigation about litigation.

Philosophical musings aside, "[u]nder res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Id.* A party unhappy with a decision must seek review upwards through appellate courts, rather than laterally attacking a judgment from another (or even the same) trial court. This court must give the same preclusive effect to the judgment of a state court as that state judicial system would. *Gilbert v. Ben-Asher*, 900 F.2d 1407, 1410 (9th Cir. 1990).

1. Glassey's claims against Amano

All Glassey's claims against Amano are barred by the parties' prior litigation. The doctrine of res judicata precludes not only claims that were actually brought in a prior case, but all claims that could have been brought because they were based on the same common nucleus of operative fact. *See*

Costantini v. Trans World Airlines, 681 F.2d 1199, 1201 (9th Cir. 1982). Each of Glassey's causes of action stems from events related to the bankruptcy of CertifiedTime. Glassey seeks to relitigate against Amano claims he has previously asserted in the bankruptcy of CertifiedTime, as well as claims that were arbitrated. The arbitration was confirmed in a California Superior Court action on May 19, 2005. Glassey challenged the underlying arbitration in the superior court. *See Amano Corp. v. Glassey,* No. CPF-05-505101, Respt's Mem. (April 6, 2005).

Glassey cannot challenge the arbitration award in this court, as that would in essence entail this court reviewing a decision of the superior court. Federal lower court review of a state-court decision is barred by the *Rooker-Feldman* doctrine. *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004). Had Glassey wished to contest the confirmation of the arbitration award, he would have had to follow the proper procedure for appeal up through the California state-court system, with a possible final appeal to the United States Supreme Court. *See* 28 U.S.C. § 1257(a). Glassey cannot maintain any of his claims against Amano in this court, and the court will grant summary judgment in favor of Amano on all claims.

2. Glassey's claims against Hudson, Williams, and Goldberg

Defendants Hudson, Williams, and Goldberg assert that Glassey's claims against them are barred by, among other things, *res judicata*, the statute of

limitations, and the settlement agreement the parties executed in May 2002. This settlement agreement was between Glassey, on one side, and Williams, Goldberg, Hudson, and Bernadette La Casse, on the other. Makris Decl., Ex. B (Settlement Agreement at 1). The agreement stated that the parties surrendered "all claims of every nature, kind, or description whatsoever, whether known or unknown and whether suspected or unsuspected, existing on the date of this Release." *Id.* (Settlement Agreement at 2). The plain language of this release covers Glassey's current claims against Williams, Hudson, and Goldberg.

Around the time of this release, the parties stipulated to a dismissal with prejudice in the bankruptcy court. Adv. Proc. No. 01-5317, Docket entry for 5/28/2002. The doctrine of *res judicata* now bars any claims that Glassey could have asserted in his adversarial bankruptcy proceeding. While judgments of bankruptcy courts may be appealed to district court, 28 U.S.C. § 158(a), such appeals must be taken within ten days of the entry of judgment, Fed.R.Bankr.Pro. 8002. Glassey did not appeal within ten days; rather, he filed this original action almost four months after the final decree in the bankruptcy action.

The prior dismissal with prejudice and the release are each sufficient alone to bar all Glassey's current claims against Williams, Goldberg, and Hudson. The court therefore will grant summary judgment to Williams, Goldberg, and Hudson as to all causes of action against them.

IV. OTHER PENDING MOTIONS

All other pending motions by Glassey are denied. If, in light of the dismissals, Glassey believes he can state a claim against a new defendant, he must file a properly-noticed motion for leave to name such defendant.

V. ORDER

For the reasons given above, the court

(1) dismisses all Glassey's claims under Title 18 for lack of standing;

(2) grants summary judgment in favor of NIST on Glassey's breach-of-contract claim;

(3) dismisses all other claims against NIST as barred by the FTCA;

(4) grants summary judgment in favor of defendants Amano, Williams, Goldberg, and Hudson as to all of Glassey's causes of action against them; and

(5) grants Glassey leave to amend his breach-of-contract claim against NIST to state a claim for return of property against NIST.

DATED: 3/31/06

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

Notice of this document has been electronically sent to:

Plaintiff (*pro se*):

Todd S. Glassey todd.glassey@att.net

Counsel for Defendants:

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Kevin V. Ryan
A. Francis Acker (*pro se*)
Chinhayi J. Coleman chinhayi.j.coleman@usdoj.gov

Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.

Dated: 3/31/06 /s/ JH
Chambers of Judge Whyte

Todd Glassey, In Pro Se
TODD GLASSEY
2627 alpine rd.
Menlo Park CA. 94025
650-926-9609

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

TODD GLASSEY,
Plaintiff,

vs. Case No.: C05-1604-RMW

AMANO CORPORATION, a corporation,
MARK WILLIAMS, an individual,
HUDSON VENTURES, a corporation,
JAY GOLDBERG, an individual,
US DEPARTMENT OF COMMERCE
NIST LABORATORIES, a federal agency,
BLUESLATE SOLUTIONS, a corporation,
RICHARD BARNETT, JOE RIATI,
DAVID B WOOD III, BERNADETTE LECASSE,
A FRANCIS ACKER, individuals, and does 1-10
Defendant

Order Confirming amending of Claims and Named Defendants in Complaint

Having seen evidence indicating the participation of the BLUESLATE Defendants (including BLUESLATE, BARNETT, WOOD, RIATI, and LE CASSE), the Court hereby confirms and grants the

amending of Claims and Named Defendants in 2nd Amended Complaint as petitioned with this Court.

_____

Ronald M, Whyte,
US Federal District Court Judge

Todd Glassey, In Pro Se
TODD GLASSEY
2627 alpine rd.
Menlo Park CA. 94025
650-926-9609

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

TODD GLASSEY,
Plaintiff,

vs. Case No.: C05 01604 (RMW)

AMANO CORPORATION, a corporation,
MARK WILLIAMS, an individual,
HUDSON VENTURES, a corporation,
JAY GOLDBERG, an individual,
US DEPARTMENT OF COMMERCE
NIST LABORATORIES, a federal agency,
BLUESLATE SOLUTIONS, a corporation,
RICHARD BARNETT, JOE RIATI,
DAVID B WOOD III, BERNADETTE LECASSE,
A FRANCIS ACKER, individuals, and does 1-10
Defendant

Order Confirming the Sale of property from US Bankruptcy 01-54207-MM; and an Order to disclose and disgorge
(Proposed)

Having heard no objections raised to the Sale of the Property in the US Bankruptcy Proceedings, and no

objections to that sale raised before the Bankruptcy Appellate Panel (BAP) as would have been required, the US District Court hereby affirms the Sale of Property by the US Bankruptcy Court to Todd S. Glassey (PLAINTIFF GLASSEY)as stated in the submitted documents "Order of Sale" from US Bankruptcy 01-54207-MM.

In confirming this sale, the US District Court does hereby order all parties herein to disclose and disgorge DEBTOR'S property from US Bankruptcy 01-54207-MM to PLAINTIFF GLASSEY herein within 30 days of this order or present formal notice filed with this court as why they are not constrained by the Sale Order of the US Bankruptcy Court.

_____

Ronald M, Whyte,
US Federal District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF CALIFORNIA
SAN JOSE DIVISION

E-FILED on 8/26/05

TODD S. GLASSEY,
Plaintiff,

v. No. C-05-01604 RMW

AMANO CORPORATION, MARK WILLIAMS, HUDSON VENTURE PARTNERS, JAY GOLDBERG, THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGIES, and A. FRANCIS ACKER
Defendants.

ORDER VACATING HEARINGS ON PLAINTIFF'S MOTIONS; DENYING MOTION TO STAY MOTIONS TO DISMISS
[Re Docket Nos. 95, 103, 105]

Pro se plaintiff Todd S. Glassey has apparently calendared several motions for September 9, 2005 involving many of the defendants named in this action.[1] Defendant National Institute

[1]Plaintiff appears to be filing motions under the heading of proposed orders, although admittedly, it is not certain. Thus, it is unclear to the court which motions plaintiff believes are calendared for September 9, 2005.

of Standards and Technologies ("NIST") moved for summary judgment, setting the hearing for August 19, 2005. Hudson Venture Partners ("Hudson") has filed a motion to dismiss that is presently calendared for October 28, 2005. Because it would be more efficient to consider the motions to dismiss in tandem, the court continued NIST's motion to dismiss to October 28, 2005 to coincide with the Hudson Partners motion to dismiss.

On August 19, 2005, the court received a letter from defendant Hudson requesting that the motions calendared for September 9, 2005 be moved to October 28, 2005.[2] It contends it was not aware that the motions had been calendared. Plaintiff responded with a letter to the court stating that all defendants were served with notice of the calendared motions.

As Plaintiff has been granted access to ECF, all documents filed by him since early July have been e-filed. Thus, these notices were served by e-mail on defendants. Nevertheless, the court finds that it would serve the interest of judicial economy to consider plaintiff's September 9 motions on the same date at the October 28, 2005 motions to dismiss. The court will take the opportunity to

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[2]Plaintiff's letter misconstrued the court's actions as intentionally permitting his calendared motions to go forward in advance of the motions to dismiss. As set forth above, consolidating the hearings on the motion to dismiss was made for the sake of efficiency, not as any indication of the court's opinions of the merits of this action.

decide whether Glassey's causes of action survive the various defendants' 12(b)(6) motions before considering the merits of his various motions.

ORDER

The court vacates all hearing dates except for defendants' motions to dismiss. The court also vacates the case management conference scheduled for September 2, 2005. The following motions to dismiss are calendared for October 28, 2005: NIST's Motion to Dismiss (Docket No. 66), Hudson's Motion to Dismiss (Docket No. 89). The court will also conduct a case management conference on that date at 10:30 a.m. The parties shall file a joint case management statement no later than October 21, 2005.

Should any other defendant seek to dismiss plaintiff's claims against it, that defendant shall file notice such motion no later than September 2, 2005. If a defendant has previously moved to dismiss but the hearing is not calendared for October 28, 2005, that defendant is to renotice its motion to dismiss for October 28, 2005 no later than September 2, 2005.[3] Plaintiff's motion to stay the pending motions to dismiss (Docket No. 95) is DENIED.

Further, plaintiff is to submit before

---

[3]In particular, the court notes that there may be a motion to dismiss filed by Mark Williams pending but cannot determine when (or if) that motion is calendared or if has been otherwise withdrawn or mooted by amendment of the complaint.

September 2, 2005 a list of motions on the docket as of August 19, 2005 that he believes should be calendared. The list shall include *only* the following information for each motion:

- Title of the document as listed on ECF
- Docket number
- Date on which the motion was originally calendared
- Which defendants were served on the motion
- A brief (no more than 4 lines) description of the basis or purpose of the motion

The court will review these motions in conjunction with plaintiff's workflow document (Docket No. 71-1) and will determine whether further briefing or a hearing is appropriate. The court will issue a written order regarding which of plaintiff's pending motions should be calendared, and will set briefing and argument schedules for such motions.

DATED: 8/25/05 /s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

Notice of this document has been electronically sent to:

Plaintiff:

Todd S. Glassey todd.glassey@att.net

Counsel for Defendant(s):

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Mark St. Angelo mark.st.angelo@usdoj.gov
Joann M. Swanson joann.swanson@usdoj.gov

Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.

Dated: 8/26/05 /s/ MAG
Chambers of Judge Whyte

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

TODD GLASSEY,
Plaintiff,

vs. Case No.: C05 01604 (RMW)

AMANO CORPORATION, a corporation,
MARK WILLIAMS, an individual,
HUDSON VENTURES, a corporation,
JAY GOLDBERG, an individual,
NIST LABORATORIES, a federal agency,
BLUESLATE SOLUTIONS, a corporation,
RICHARD BARNETT, JOE RIATI,
DAVID B WOOD III, BERNADETTE LECASSE,
A FRANCIS ACKER, individuals, and does 1-10
Defendant

Expedited Summary Motion to take Judicial Notice of Evidence presented and to deny the objection made by US Attorney in his Motion to Dismiss against NIST.

Calendared for:
Where: Courtroom #6,
San Jose Federal Building
When: October 28th, 2005 at 9:AM

Introduction

May it please the Court, the US Attorney has raised an objection to Evidence and PLAINTIFF'S

assertions as to what the evidence means. The specific material the US Attorney objects to in his motion to dismiss are the email communications between his client(s) and defendant AMANO, as well as his clients contracts with AMANO as well.

The Motion

1. Plaintiff, hereby moves this Court to take judicial notice of the filing of the Evidence submitted to date (includes exhibits produced in e-filing and by paper submission with PACER numbers less than 100) as being from reliable and easily proven sources, i.e. a previous Arbitration;

2. PLAINTIFF certifies that all submitted evidence meets Federal Rules of Evidence (title 28, rule 201 subsection B's) requirements since all of the Evidence is easily documented as fact by Counsel to AMANO corporation or those individuals producing it. Be advised that this means that the Opposing Counsel Peter Isola Esq. will be testifying as to the Evidence he personally turned over to the PLAINTIFF which is all part of discovery from the American Arbitration Association's prior proceeding into this matter per the attached inventory.

3. Thus PLAINTIFF asserts all the submitted Evidence to date meets the basic criteria since it is all "capable of immediate and accurate determination by resort to easily accessible

sources of indisputable accuracy". Thus, PLAINTIFF moves this Court to accept the evidence as factual or to schedule a hearing into the validity of those pieces questioned by the US Attorney.

Submitted through efiling - Sunday, August 14, 2005

TS Glassey Plaintiff, In Pro Se

Todd Glassey, In Pro Se
TODD GLASSEY
2627 Alpine rd.
Menlo Park CA. 94025
650-926-9609

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

In Re: CertifiedTime, 01-54207-MM, Debtor

TODD GLASSEY,
Plaintiff,

vs.

AMANO CORPORATION, a corporation, Mr. MARK WILLIAMS, an individual, HUDSON VENTURES, a corporation, Mr. JAY GOLDBERG, an individual, Mr. DAVID B. WOOD, an individual, BLUESLATE SOLUTIONS, a corporation, Mr. JOE BARNETT, an individual, and Mr. JOE RAITI, an individual; US DEPARTMENT OF COMMERCE NIST LABORATORIES, a federal agency, AND DOES 1-10,
Defendants

Case: C05-01604 RMW

Amendment to Named Defendants in 2nd Amended Claim to include:

1. BLUESLATE Solutions, a corporation,
2. Mr. DAVID B. WOOD, an individual,
3. Mr. RICHARD BARNETT, an individual, and
4. Mr. JOE RAITI, an individual

1. Here comes PLAINTIFF, TODD S. GLASSEY, PLAINTIFF, who in filing this Amended Claim, does additionally include in all previous claims and relief demands, the following Corporate and Individual Defendants: BLUESLATE Solutions, a corporation, Mr. DAVID B. WOOD, an individual, Mr. RICHARD BARNETT, an individual, and Mr. JOE RAITI, an individual, all officers of defendant "BLUESLATE". This amendment serves to further identify the named Defendants in this matter stemming from the Fraudulent Withholding of SUCCESSOR'S Properties.

2. This re-amending of Defendant BLUESLATE and its officers as Defendants named herein is based on both a breach in BLUESLATE'S returning Estate Property as agreed, and new evidence and discovery that exposed DAVID B WOOD (WOOD) as an active participant WILLIAMS actions in the "tanking" of Debtor, CertifiedTime.

3. Further as demonstrated in the attached CertifiedTime Business Plan's Section 7, there was an apparent conspiracy by the Officers of BLUESLATE SOLUTIONS to merge Debtor

with BLUESLATE under WILLIAMS and WOOD'S hands.

4. Additionally, based on the attached Exhibits as well, BLUESLATE and its officers have knowingly withheld properties of the Estate of DEBTOR from which many of the claims of this matter stem from.

5. This claim is clearly documented both in the Business Plan's circulated by Defendant WILLIAMS as attached to this Motion as an exhibit and since WOOD, BARNETT, and RAITI responded to numerous Venture Capitalists that this was in fact the Management Team at CertifiedTime, which for the purpose of this amendment, demonstrates the claim fully.

Defendant DAVID B WOOD

6. We therefore amend the claim to name Mr. DAVID B WOOD (WOOD), an Individual, as Defendant WOOD. Defendant WOOD, who as a principal investor for FIRST ALBANY COMPANIES (FA) and the President and Board Member of BLUESLATE SOLUTIONS, was one of the DEFENDANT WILLIAM'S group of Investor's who partially funded CERTIFIEDTIME.

BLUESLATE SOLUTIONS and JOE RIATI and RICHARD BARNETT

7. For its acts in trying to 'extort' a civil release for the return of the PLAINTIFF'S properties per the Exhibit filed with this Amended Claim, we also re-include BLUESLATE SOLUTIONS LLP as a Defendant, and the following BLUESLATE Staff Members individually as Defendants, Mr. RICHARD BARNETT (BARNETT) and Mr. JOE RAITI (RAITI), both officers of BLUESLATE, and any charge against BLUESLATE is also an inclusive charge against BARNETT and RAITI.

8. Claims for relief against BLUESLATE are to be reinstated from the earlier filing and are incorporated here by reference.

Dated this November 8, 2005

/s/_____

TODD GLASSEY
2627 alpine rd.
Menlo Park CA. 94025
650-926-9609
Todd Glassey, In Pro Se

Evidence Inventory

This evidence is emails issued between the parties as well as other documents, contracts, and otherwise. The inventory of evidence is as follows:

- Evidence indexed as "Discovery in the 'first' Glassey v Amano Arbitration matter" – Said evidence is all BATES STAMPED with the page-codes of "AC00xxxx" or "TG00xxxx"; where xxxx is the actual page number; AC is "AMANO Corporation", and TG is "Todd Glassey", PLAINTIFF.

- Non-"Bates Stamped" Evidence is from

  - The "CertifiedTime properties" recovered from the possession of Mr. Pat Casey and Mr. Dolf Starreveld, both division or group managers from within Debtor,

  - Or it is part of communications or agreements between NIST and PLAINTIFF directly, as in CRADA'S 1767 and 1809.

Declaration in Support of Motion

I Todd S. Glassey, PLAINTIFF in the matter herein, declare the following is true and correct to the best of my ability under the perjury laws of the United States, and to those things of which I have first hand knowledge, that they are represented as true and

correct, and to those things I operate on faith and belief, that they also are represented here as true and correct by my faith and belief.

I declare the following, that in all instances, all evidence submitted to date in this matter, is based on testimony, discovery or evidence submitted as formal exhibits in a formal litigation before the American Arbitration Tribunals.

Since Evidence emanates from a previous litigation

1. All the evidence presented comes from one of three sources,

    a. AMANO Corporation produced it as part of DISCOVERY in Glassey v. AMANO,

    b. it was recovered from DEBTOR'S VP OF ENGINEERING'S Computer, or DEBTOR'S IT Manager's Computer, who each produced a CD of various files and corporate documents, or

    c. it came from PLAINTIFF'S library of various of DEBTOR'S documents and his own operations with NIST outside of DEBTOR.

2. I further declare that it is not clear what NIST is actually objecting to, or whether they are saying the documents are fraudulent or not. If that is what they are saying, if true

then AMANO will have something else to worry about, but PLAINTIFF doesn't believe that these documents are false or untrue.

3. Also, since all of this material NIST is objecting to is part both the public record and available under a FOIA umbrella PLAINTIFF believes that this objection on the part of the US Attorney is really just a smoke-screen and delaying tactic to make it more difficult to find his client's unclean hands guilty of committing Bankruptcy Fraud.

4. Since the BATES STAMPED evidence itself emanates from a previous litigation and was turned over to the PLAINTIFF in December of 2004 and onward, it is all 'fresh' in that sense. Likewise, in all instances, the BATES Numbered Submittals can be confirmed by AMANO'S attorney, Mr. Peter Isola Esq. Likewise all other evidence can be

So Declared this, August 14, 2005. and electronically filed and signed under the penalty of Perjury, witness my e-hand, Todd S. Glassey

Memorandum of Points and Authorities

Judicial Notice is limited to

This rule is consistent with Uniform Rule 9(1) and (2) which limit judicial notice of facts to those "so universally known that they cannot reasonably be the subject of dispute," those "so generally known or

of such common notoriety within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute," and those "capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy.

PLAINTIFF'S assertion is that in this matter, all Evidence submitted to date including references to other evidences, and timelines, may be verified and easily reviewed by the court and the Opposing Counsel.

Federal Rules of Evidence

Federal Rules of Evidence – Title 28 Rule 201.
Judicial Notice of Adjudicative Facts

(a) Scope of rule.--This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts.--A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary.--A court may take judicial notice, whether requested or not.

(d) When mandatory.--A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard.--A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice.--Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury.--In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

(Pub. L. 93-595, § 1, Jan. 2, 1975, 88 Stat. 1930.)

U.S. DEPARTMENT OF COMMERCE
NATIONAL INSTITUTE OF
STANDARDS AND TECHNOLOGY
BOULDER, COLORADO

U.S. GOVERNMENT SHIPPING DOCUMENT

CHECK ONE

☒ NIST ☐ NOAA ☐ NTIA

SHIP TO:

Paul Morris/Certified Time
Exodus Communications, K.K.
4-29 Yetsuya
Shinjuku-ku
Tokyo 160 - 0004
Japan

SHIP FROM:

NIST/847
325 Broadway
Boulder, Colorado 80305

AUTHORIZED BY:

Judah Levine

PREPARED BY:

Judah Levine RM 1-4036 EXT 3903

PURPOSE

Time server for Tokyo and Japan

DATE SHIPPED 1/3/01

COST	500.00
B/L	8172 9674 0322
TTL PC	7
TTL WT	294#
VALUE	$125,000
SHIP BY	Fed. Express
DIV. & SEC.	847.7
PROJECT	8477365

BX	ITEM	STOCK NO.	DESCRIPTION
	1		Computer, COMPAQ/DEC DS10 Model P310A-AD
	2		Computer, COMPAQ/DEC DS10 Model P310A-AD
	3		Monitor for above Model 3RQV5-24
	4		GPS Antenna and cables, Acutime 2000
	5		GPS Antenna and cables, Acutime 2000
	6		Mounting rods for antennas

7		Hewlett-Packard/Agilent 5071 Cesium Standard Note: Contains 6 grams of cesium, NW1407

(table cont.)

BX	PROP. NO.	SERIAL NO.	UNIT ISSUE	QTY REQ	QTY ISSUE	B.O.
1	–	40113QMZ1042				
2	–	40113QMZ1040				
3	–	904BF723S2138				
4	–	11830585				
5	–	11830607				
6	–	–				
7	–	230				

LAW OFFICES OF
DENNIS L. KENNELLY
1030 CURTIS STREET, SUITE 200
MENLO PARK, CALIFORNIA 94025
TELEPHONE (650) 853-1291
FACSIMILE (650) 854-7839

Via U.S. Mail and
Facsimile to 408/535-5532

October 14, 2004

Ms. Edwina E. Dowell
Office of the United States Trustee
280 South First Street, Suite 268
San Jose, CA 95113

RE: The Bankruptcy of CettifiedTime, Inc.
(01-54207-MM)

Dear Edwina:

My office represents Todd Glassey, the founder plurality shareholder and principal creditor of CertifiedTime, Inc. ("CTI"). I write because a number of irregularities that have surfaced over the last three plus years, since CTI filed for bankruptcy, seriously support the contention that the bankruptcy filing was fraudulent and was one for purposes that had nothing to do with the Company's alleged insolvency. In fact, careful (or even cursory) examination of the assets of CTI at the time it filed, and shortly thereafter, reveal that the Company was not insolvent and, indeed, had assets sufficient to

meet its obligations.

There were two principal beneficiaries of the fraud that were perpetrated. The first were the then current management of CTI, CEO Mark Williams and Chairman Jay Goldberg while the second was Amano Corporation of Japan which was, at the same time, CTI's largest customer and a major investor. A closer look at the relationship between the two entities also reveals that Amano was an outsourced provider of services to CTI who stood to expend millions of dollars in costs if CTI stayed: in business. As will be seen below, it is clear that it was in the financial best interest of both Amano and the CTI management for CTI to go bankrupt - be liquidated and cease to exist.

Mr. Glassey sent a memorandum to Nanette Dumas of your office on September 11, 2004 outlining, in some detail, what happened and when. I would commend it to you for review since it somewhat succinctly sets forth what happened and when. There is ample documentation in support of this and we will be happy to provide it to you in due course upon your request. Based on our recent conversation, I will attempt to provide the framework which clearly supports the assertion that the filing was fraudulent and actions which occurred both before and after the filing were fraudulent.

The motivation for each of the major groups is relatively simple. Todd Glassey owned the intellectual property on which CTI was founded. At one time he had assigned it to the Company but, for

a variety of reasons at the time, CTI sought to locate investors (including Amano); CTI no longer owned, or had, any right to use the intellectual property on which the Company was based. CTI management was aware of that fact but did not disclose it to investors. The legal effect of that situation .is obvious - it subjected them to potential civil and criminal liability for investor fraud. That whole situation was about to come to a head in a civil lawsuit which Glassey filed less than three months before the bankruptcy filing. The motivation for Amano was also simple. Amano had no intention of fulfilling all of its obligations under the very complicated License and Resale Agreement that it signed with CTI. It had gotten the access to the U.S. Timebase through a connection CTI had with the National Institute of Technology's Timing and Frequency Laboratory and really wanted little else out of it. Amano's actions revealed it had no intention of complying with its detailed and extensive obligations under the License and Resale Agreement, nor the ability to so do, along with an attendant cost of nearly $10 Million. Further details can be found in the Glassey attachment.

The Process was flawed from the start. It was based on a fraudulent declaration stating that there. had been a unanimous common-shareholder vote authorizing the Board of Directors to file for bankruptcy. There is clear evidence that there s no shareholder vote and that the Board of Directors did not authorize the bankruptcy filing since Glassey was a director and was never notified of any bankruptcy filing until he received post-filing

notification as a creditor.

The *Mechanics* were flawed. The only records that management turned over to the Trustee were four nearly-useless boxes of payroll-type paperwork. There was no hardware, no software, and no intellectual property. There is sworn testimony from a former CTI IT executive that Mark Williams took the CTI file servers after the company ceased operations and laid off most of its employees. The same individual, Pat Casey; has also testified under oath that Williams later called him and asked that he get the password for the file servers and systems. There was no mention made of this to the Bankruptcy Court or the Trustee.

Additionally, there is a great deal of hardware and software that belonged to CTI that has never been accounted for. There were data centers established in New York and Chicago, among other places, and no mention has been made of the whereabouts of that hardware or software. All of these represent assets that could have been used to save the Company.

The largest unreported set of assets involved Amano. CTI established a Timing Center in Tokyo consisting of both hardware and software. CTI spent over $2 Million developing software, most of which went to the Tokyo Timing Center. No mention was made to the Bankruptcy Court or the Trustee and the hardware and software have never been returned to the Estate. As it turns out, Amano made use of the Timing Center long after the bankruptcy was filed

without compensating CTI or the Estate. The evidence indicates that this was planned as there is pre-petition correspondence between Mark Williams and CTI Chairman Jay Goldberg and Amano discussing how CTI could insure that Amano could use CTI equipment after CTI became insolvent to prevent it from being seized for the benefit of the remaining creditors.

CTI also had a License and Resale Agreement with Amano which called for Amano to operate the Tokyo Timing Center for CTI on an outsourced basis. There were also significant license and royalty payments due to CTI which would have kept the company more than liquid. CTI did not pursue these monies (and neither did the Trustee). In addition, neither CTI nor the Trustee dealt with Amano's numerous breaches of the License and Resale Agreement's outsourcing and marketing provisions. These all occurred before CTI ceased operations and laid off all its employees and ceased operatjons.

Further, there was the illegal seizure of the Tokyo Timing Center by Amano on June 21, 2001. This action was admitted under oath by Tak Naito, an Amano executive who was the Amano point person in the CTI relationship. The actions violated the Japanese Computer Crime Act and, hence, the contract which required the Reseller and Outsourced Operator (Amano) to obey all local laws. Again, no one at CTI put any pressure on Amano over this behavior or made any report of it to the Bankruptcy Court or Trustee.

Mr. Glassey, both personally and to a lesser extent, through the writer as his counsel, has made Trustee Suzanne Decker and her counsel Barry Milgrom, Esq. of Luce Forward, et al., aware of most, if not all, of these issues to no avail. For whatever reason, the Trustee chose to take no action to even investigate any of these obvious improprieties. What is equally troubling is the refusal of the Trustee's counsel to answer a straightforward question posed by Mr. Glassey as to whether his law firm has or does now represent Amano. If that is indeed the case, it was not disclosed to the Court or to the other creditors.

Finally, there is the role of the National Institute of Standards and Technology, an agency of the U.S. Department of Commerce. CTI had contracted with NIST under a Cooperative Research and Development Agreement to develop certain software and procedures and had paid them to do it. NIST is allowing Amano to make use of these as well as providing it access to the U.S. Timebase free of charge. It was this pre-petition agreement with Amano to continue to provide service in the event of a CTI insolvency that emboldened Amano to seize the Tokyo Timing Center and cease any semblance of compliance with the License and Resale Agreement. This was the death knell for CTI and allowed Amano to get the NIST time connection without paying any price for it. It also made Amano, and an agency of the U.S. Government, complicit in the destruction of a U.S. company. None of this was reported to the Court or the Trustee.

The entire situation should be examined carefully for

bankruptcy fraud. What Mr. Glassey seeks is a referral to the United States Attorney for that purpose. If you, or anyone in your office, has any questions, please do not hesitate to contact me.

Yours truly,

/s/ Dennis L. Kennelly

Dennis L. Kennelly

DLK/mh
cc: Todd Glassey

todd glassey

From:	"Michael Rubin" <mrubin@nist.gov>
To:	"todd glassey" <todd.glassey@worldnet.att.net>
Cc:	"O'Brian, Thomas R. (Boulder)" <obrian@boulder.nist.gov>
Sent:	Wednesday, April 28, 2004 1:41 PM
Subject:	Fwd: Re: Fwd: Status on materials returned

The following email from Tom O'Brian attempts to answer your questions about hardware. Please refer to my letters to your lawyer for NIST's views on intellectual property.

Mike Rubin

Amano shipped two sets of GPS receivers and cables to NIST after a lengthy process of getting the required Japanese export license. This shipment arrived in Denver approximately April 19, where it had to clear customs. We learned just a couple of days ago that it had cleared customs and should arrive at NIST any day. We will send it to Mr. Glassey upon its arrival.

You will recall that other equipment under dispute included three time servers and two HP commercial atomic clocks. The servers were determined by bankruptcy court to belong to Certified Time, so NIST asked Amano to deal directly with Mr. Glassey or other CTI representatives on that issue. The

atomic clocks were determined by bankruptcy court to belong to Agilent Financial Services, and NIST asked Amano to deal directly with that creditor.

Memorandum

To:	The Board of CertifiedTime
CC:	Berni La Casse
From:	Todd S. Glassey, Director
Date:	4/8/2001
Re:	Quorum and meeting constraints.

Mr. Williams Mr, Goldberg, and Ms. La Casse,

Please be advised that I was told by Ms. La Casse that a Board meeting was to be held several weeks ago in my absence.

To this I must respond and formally inform the Board that under the currently in-place Articles of Incorporation and Corporate Bylaws, that any meeting of the Board must be called by a quorum of Board Members to be a valid meeting.

Further that a minimum of the members needed to represent a quorum must also affirmatively vote to enact any changes to the Articles of Incorporation or Corporate Bylaws and to date, this has not occurred.

A quorum is defined as a minimum of three (3) of the five (5) directors, even though two (2) of the directors have been forced from their seats by the current management team. The bylaws still require a minimum of three affirmative votes to either convene the meeting or to make any changes to the Board or its operating provisos and since this has not happened, nothing that took place at that or any earlier meetings is binding.

Since there will be no quorum available tomorrow, no meeting can happen then either.

Please head this warning, and note that any actions being taken clandestinely will be grounds for issuance of a Restraining Order, and as a Director I will immediately seek said order.

To facilitate being ready for this, as a Director I am formally requesting the records of the Board for the last 9 months as part of a submission to the Courts of Santa Clara County for the issuance of a TRO and the accompanying Order to Show Cause.

Todd S. Glassey
Member of the Board.
Via digitally signed email and fax.

[E-Mail Printout]*

[ø]

[ø]: Takamitsu Naito/AMANO/JP
[ø]: 2001/08/10 10:13 [ø] (e-timing [ø])
[ø]: 2001/08/02 RE: Letter from AMANO

Jay Goldberg <JGOLDBERG@hudsonptr.com>
2001/08/02 28:40:03

[ø]
[ø]
[ø]: Takamitsu Naito/AMANO/JP/AMANO
[ø]: e-timing [ø]
cc:
[ø]: Jay Goldberg <JGOLDBERG@hudsonptr.com>

[ø]: RE: Letter from AMANO

Dear Mr. Naito,

As you know, the company has no money to pay any of it's creditors, many of whom have security interests. I am no longer a director of the company.

Sincerely,

Jay Goldberg

---------- Original Message ----------

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*Untranslated Japanese characters will be denoted by [ø].

From: Takamitsu_Naito@amano.co.jp [mailto: Takamitsu_Naito@amano.co.jp]
Sent: Monday, July 30, 2001 7:19 PM
To: jgoldberg@hudsonptr.com
Subject: Letter from AMANO

Dear Mr. Goldberg:

Please be informed that AMANO corporation has sent the attached letter to Mr. Mark Williams yesterday by FEDEX. He might receive the letter by now.

This image of the letter is your copy. If you have any trouble viewing the file, please let me know.

(See attached file: REPAYMENT. zip)

Sincerely yours,

Tak Naito / AMANO Corporation

Barry Milgrom, State Bar No. 99961
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Rincon Center II, 121 Spear Street, Suite 200
San Francisco, California 94105-1582
Telephone No.: 415.356.4600
Fax No.: 415.356.4610

Proposed Counsel for SUZANNE L. DECKER,
Trustee in Bankruptcy

[DATE STAMP]
FILED OCT 15 2001
CLERK
United States Bankruptcy Court
San Jose, California

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN JOSE DIVISION

In re	Case No. 01-54207 MM Chapter 7
CERTIFIEDTIME, INC., aka CertifiedTime.com,	The Hon. Marilyn Morgan [No Hearing Required]
Debtor.	

ORDER AUTHORIZING EMPLOYMENT OF COUNSEL (Luce, Forward, Hamilton & Scripps, LLP)

Upon the Application of Suzanne L. Decker, Trustee in Bankruptcy of the estate of the above-named Debtor; and it

APPEARING that Luce, Forward, Hamilton & Scripps, LLP is qualified to represent the Trustee in these proceedings. that employment of counsel will be in the best interests of the estate, that counsel represents no interest adverse to the estate and that notice and a hearing are not necessary in connection with the Application; it is hereby

ORDERED that, Mohamed Poonja, Trustee in Bankruptcy, is authorized to employ Luce, Forward, Hamilton & Scripps, LLP as his counsel to assist him in all matters arising in or related to this Chapter 7 proceeding, including, but not limited to:

1. Assist and advise the Trustee concerning investigation, collection and liquidation of potential assets of the estate;

2. Assist and advise the Trustee regarding any transfers which may be avoidable under the provisions of the Bankruptcy Code;

3. If the Trustee requests, assist the Trustee in the objection to claims; and

4. Attend Court hearings related to the foregoing.

DATED: OCT 15 2001 MARILYN MORGAN
UNITED STATES
BANKRUPTCY JUDGE

CertifiedTime, Inc.,
a California Corporation

Resolution by the Board of Directors

A special meeting of the Board of Directors was called on August 20, 2001, notice being waived by unanimous votes of all the common shareholders, to consider the financial problems of the corporation.

Thereupon on motion duly made and seconded, the following resolution was unanimously adopted.

Whereas, the affairs of the business of CertifiedTime, Inc., a California Corporation, has not been successfully conducted and said business is insolvent and unable to pay its debts as they arise.

Resolved that Mark Williams, President, of CertifiedTime, Inc. of, is authorized to proceed with filing of a Petition for a Chapter 7 under the Bankruptcy Code of the United States.

Resolved further that MICHAEL W. MALTER, Esq., of the law offices of BINDER & MALTER, LLP shall be retained as the attorney for the corporation for all phases of the Chapter 7 proceeding and shall be immediately requested to proceed.

There being no further business to come before the meeting, on motion duly made and seconded, the meeting was adjourned.

Dated: August 22, 2001

/s/ Mark Williams
Mark Williams
President

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN JOSE DIVISION

[DATE STAMP]
ILLEGIBLE
U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
SAN JOSE, CA.

In re	Case No. 01-54207 MM Chapter 7
CERTIFIEDTIME, INC., aka CertifiedTime.com,	The Hon. Marilyn Morgan [No Hearing Required
Debtor.	Unless Requested]

NOTICE OF TRUSTEE'S INTENT
TO SELL PERSONAL PROPERTY AND
COMPROMISE CONTROVERSY
(Todd Glassey)

TO ALL CREDITORS AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE THAT Suzanne L. Decker, Trustee in Bankruptcy of the estate of the above-named Debtor, has agreed to sell certain assets and compromise certain controversies concerning claims with Todd Glassey, former insider and principal of the Debtor. The Trustee has agreed, subject to Bankruptcy Court approval, to sell to Todd Glassey on an "as-is, where-is, and with all faults"

basis, without representation or warranty of any kind, including warranties of fitness for a particular purpose, all of the estate's right, title and interest in and to (1) all of the intellectual property of the estate (but excluding the right to use the name of debtor in connection with the pending bankruptcy, which the estate will retain), including the intellectual property which underlies the Debtor's contracts with Amano, as well as the right to enforce and retain the proceeds of any contracts the Debtor has with Amano, and (2) the remaining tangible assets of the estate located outside of the United States. The purchase price is $10,000, allocable $9,500 to the intellectual property and $500 to the tangible assets.

In addition, Mr. Glassey waives any and all claims that he has against the Trustee and/or the estate, including but not limited to the following claims that he filed: Claim No. 24, filed December 28, 2001 as a priority claim in a zero amount; Claim No. 26, filed January 2, 2002, as an unsecured claim of $5,000,000; and Claim No. 27, filed January 2, 2002, as an unsecured claim of $200,000.

The Trustee believes that the sales price is a fair one. To the best of the knowledge of the Trustee, the intellectual property and tangible assets have value only with respect to certain claims that Mr. Glassey has asserted against Amano Corporation in Japan, based on pre-petition contracts between the Debtor and Amano and based on Amano's alleged use of Debtor's intellectual property. The Trustee has been in contact with Amano, which has denied any liability and instead has asserted a substantial claim

against the Debtor's estate.

The Trustee believes that, to the extent that this is a compromise, it meets the standards of *Martin v. Kane* (*In re A&C Properties*), 784 F.2d 1377 (9th Cir. 1986), cert. den. sub nom *Martin v. Robinson,* 479 U.S. 854 (1986). The Trustee believes he would probably be. successful in opposing the claims filed by Mr. Glassey, but they are being withdrawn in full under the "compromise", so litigation could not achieve a better result. While any litigation over the Glassey claims would not involve any collection action or issues, there would necessarily be expense, inconvenience and delay attending any such litigation. Moreover, the Trustee does not believe that there are higher and better offers to purchase the assets being sold. Therefore, the Trustee believes that the proposed compromise, to the extent that this is a compromise, is in the paramount interest of creditors.

Objections or Requests for Hearing

PLEASE TAKE FURTHER NOTICE THAT Local Rule 9014-1 of the United States Bankruptcy Court for the Northern District of California prescribes the procedures to be followed with respect to any objection to the proposed compromise/sale or any request for hearing thereon. Any objection to the proposed compromise/sale or request for hearing must be filed with the United States Bankruptcy Court, San Jose Division at 280 South First Street, Third Floor, Room 3035, San Jose, California 95113, and served on counsel for the Trustee at the address

noted below within 20-days from the mailing of this notice. Any request for hearing or objection to the proposed compromise/sale must be accompanied by any declarations or memoranda of law that the party objecting or requesting wishes to present in support of its objection. If no party in interest timely objects to the requested relief or requests a hearing, the Trustee will seek entry of an order approving the compromise/sale by default, without further notice and in the absence of an actual hearing. If a timely request for a hearing is made, counsel for the Trustee will give at least 10 days' written notice of the hearing to the objecting or requesting party.

DATED: April 25, 2002

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: /s/ Barry Milgrom
BARRY MILGROM
Attorneys for SUZANNE L. DECKER, Trustee in Bankruptcy of the Estate of CertifiedTime, Inc.

Barry Milgrom, State Bar No. 99961
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Rincon Center II, 121 Spear Street, Suite 200
San Francisco, California 94105-1582
Telephone No.: 415.356.4600
Fax No.: 415.356.4610

Barry Milgrom, State Bar No. 99961
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Rincon Center II, 121 Spear Street, Suite 200
San Francisco, California 94105-1582
Telephone No.: 415.356.4600
Fax No.: 415.356.4610

Attorneys for SUZANNE L. DECKER,
Trustee in Bankruptcy

[DATE STAMP]
FILED
03 MAY 22 PM 4:39
CLERK
ILLEGIBLE

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN JOSE DIVISION

In re	Case No. 01-54207 MM Chapter 7
CERTIFIEDTIME, INC., aka CertifiedTime.com,	The Hon. Marilyn Morgan [No Hearing Requested]
Debtor.	

ORDER AUTHORIZING TRUSTEE TO
SELL PERSONAL PROPERTY
AND COMPROMISE CONTROVERSY
(Todd Glassey)

The Court having reviewed the Request For Entry Of Order Authorizing Trustee to Sell Personal

Property and Compromise Controversy (Todd Glassey) and Declaration of Barry Milgrom in support thereof, notice of the proposed sale and compromise being appropriate under the circumstances and good cause appearing therefore, it is

ORDERED as follows:

1. The Trustee's request is approved in all aspects in accordance with the terms described in the Notice of Trustee's Intent to Sell Personal Property and Compromise Controversy (Todd Glassey) ("Notice"), a true and correct copy of which is attached hereto.

2. The Trustee is authorized to take any and all actions and execute any and all documents necessary or appropriate to consummate the sale and compromise.

DATED: MAY 22 2003 MARILYN MORGAN
UNITED STATES
BANKRUPTCY JUDGE

[E-Mail Printout]*

[ø]

[ø]: Takamitsu Naito/AMANO/JP
[ø]: 2001/07/03 10:15 [ø]
[ø]: 2001/06/22 Reply

[ø] Takamitsu Naito [ø]: 2001/06/22 19:39

[ø]
[ø] dolfs@certifiedtime.com

cc: Mark.Williams@certifiedtime.com
Junichi Minamoto/AMANO/JP@AMANO
Masamiki Konno/AMANO/JP@AMANO
Tadahiro Sato/AMANO/JP

[ø]: Takamitsu Naito/AMANO/JP [ø]

[ø] Reply [ø]

Dear Dolf:

I confirmed your E-mail.

First of all, I want to put personal feelings aside.

When we received your "Final update" E-mail yesterday, we realized that CTI is not going make any further update on the system and we are loosing

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*Untranslated Japanese characters will be denoted by [ø].

your support. We were forced to take and freeze the system as is.

As you know, it is obvious now that the obligations of the license agreement will not be completed by CTI and we are not able to start commercial operations as is and that is a reality we are facing with.

As AMANO Corp. invested 750K as a license fee, we need to secure the investment and the system as is. We must protect them from any further change by anyone. (Please do not take this personally. Anyone can be anyone who may obtain the password.)

Especially we need to protect our public service which we committed with NIST by securing network equipment.

Therefore, before we talk about "right to make change" we took the risk control action to ensure us to execute our obligation to the public, with NIST and what we have committed with our Japanese Government.

However, as you notice that we did not block Web app. and DB system to respect your own right.

If you consider what AMANO has invested for and what we have now, I believe that you understand our risk management decision.

By the way, a little after our telephone conversation, we noticed that we were no longer able to logging in to the Web App. Now we have no access to Admin.

and Customer function at all.

Do you have any idea, why that happened? AMANO Corp. uses the service internally for synchronizing entire computer in AMANO, testing and monitoring Tokyo Timing Center. Please verify.

We are looking forward to have your reasonable judgment or discussion as executive level.

I am looking forward to have your reply soon. I can check my E-mail during weekend.

With Best Regards,

Tak Naito

<<– "Dolf Starrevald" <dolfs@certifiedtime.com> –>> 2001/06/22 18:21 Wrote:

Gentlemen,

While I attempted to do some cleanup in the Tokyo timing center tonight, I noticed that the passwords to some equipment were changed. Since I know CTI did not do this, I telephoned Tak Naito and asked about this. Although he initially hesitated, he confirmed that the passwords had been changed. I informed him that this equipment is ours, and still being managed by us, and Amano has no right to make these changes without informing us and giving us the new passwords. I asked that the passwords be restored immediately. He stated that this would need to be discussed with management. I repeated

my request for immediate restoration of the passwords, which was refused.

I explained that as an executive of CTI, I had to inform him that this could not, in any way, be perceived as a friendly act. He said he understood. I informed Tak that this was now out of my hands and that I would inform Mark.

I would have to say that, given the fact that earlier today Minamoto San was discussing with Mark to come to the US on Monday to talk about things, I do not understand these actions at all. They can hardly make any positive contribution, and are not what I expect from senior executives. It saddens me deeply that Amano's executives have felt that they have to act in such an unprofessional manner.

This email serves mostly as a formal summary of my perception of the events of tonight, but perhaps you can respond by confirming that you have changed the passwords, and explaining why. Of course you can also respond by informing me of the new passwords. I look forward to your reply when I come into the office in the morning.

—dolf

Equipment and Software List

Please detail each piece of equipment you are bringing to Exodus. The Equipment ID is a user-supplied label on the equipment so we know which box it is. The Serial Number is for security. Power: volts, amps; add up the amperage listed on the UL label for each piece of equipment and divide in 1/2 for the total amp load. Each power 'whip' is 15 amps. OS or DB and versions: troubleshooting, MMS. Login & password: to get access for reboots, troubleshooting, etc. IP Address: monitoring, testing. Dimensions: will it fit in the rack(s) you chose. Notes: anything you want to tell us.

Equip. ID (your label):
GPS01.JP.CERTIFIEDTIME.COM
Serial Number: 11830585
Model Num. / Description: ACUTIME 2000
Equip (root / admin) Login
Power: 110mA @12 Volts 1.3 Watts
Equip Login Password:
Connector: 12-pin round water proof
Rack or Shelf mount: Roof
IP Num. Assigned:
Equipment Dimensions H= 5 D= 6.12
Notes: Prime Power: +8 VDC to +36 VDC, reverse polarity protection
Accuracy: w/in UTC 50nanosecaonds(one sigma)
Cage # Rack # Shelf #

Equip. ID (your label):
GPS02.JP.CERTIFIEDTIME.COM
Serial Number: 11830607

Model Num. / Description: ACUTIME 2000
Equip (root / admin) Login
Power: 110mA @12 Volts 1.3 Watts
Equip Login Password:
Connector: 12-pin round water, proof
Rack or Shelf mount: Roof
IP Num. Assigned:
Equipment Dimensions H= 5 D= 6.12
Notes: Prime Power: +8 VDC to +36 VDC, reverse polarity protection
Accuracy: w/in UTC 50nanosecaonds(one sigma)
Cage # Rack # Shelf #

Equip. ID (your label): Antenna Mount
Serial Number:
Model Num. / Description: Antenna Mount
Equip (root / admin) Login
Power: 100 Volts 5 Amps
Equip Login Password:
Op Sys & Ver DB & Ver:
Rack or Shelf mount: Rack
IP Num. Assigned:
Equipment Dimensions H= L= D=
Notes: NS firewall
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
Serial Number: 9911190393
Model Num. / Description: IC107-R2
RS485/232C Converter
Equip (root / admin) Login
Power: 100 Volts 12 watts
Equip Login Password:
Op Sys & Ver DB & Ver:

Rack or Shelf mount: Shelf
IP Num. Assigned:
Equipment Dimensions
H= 58mm L= 203mm D= 302mm
Notes: GPS Signal Converter (RS232C-RS485) Black Box
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
Serial Number: 9912270407
Model Num. / Description: IC107-R2 RS485/232C Converter
Equip (root / admin) Login
Power: 100 Volts 12 Watts
Equip Login Password:
Op Sys & Ver DB & Ver:
Rack or Shelf mount: Shelf
IP Num. Assigned:
Equipment Dimensions
H= 133.4mm L= 425.5mm D= 523.9mm
Notes: GPS Signal Converter (RS232C-RS485) Standby
Black Box
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
HP5071A01.JP.CERTIFIEDTIME.COM
Serial Number: 3249A00797
Model Num. / Description: Atomic Clock1
Equip (root / admin) Login
Power: 100 Volts 100 Watts
Equip Login Password:
Op Sys & Ver DB & Ver:
Rack or Shelf mount: Shelf

IP Num. Assigned:
Equipment Dimensions
H= 133.4mm L=425.5mm D= 523.9mm
Notes: Time Frequency Device
warm up time 15 to 30 minutes
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
HP5071A02.JP.CERTIFIEDTIME.COM
Serial Number: 3249A00230
Model Num. / Description: Atomic Clock2
Equip (root / admin) Login
Power: 100 Volts 100 Watts
Equip Login Password:
Op Sys & Ver DB & Ver:
Rack or Shelf mount: Shelf
IP Num. Assigned:
Equipment Dimensions
H= 133.4mm L=425.5mm D= 523.9mm
Notes: Time Frequency Device
warm up time 15 to 30 minutes
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
NIST01.JP.CERTIFIEDTIME.COM
Serial Number: 4011DQMZ1042
Model Num. / Description:
DA-PB10A-AD / Compaq Alpha Time Server
Equip (root / admin) Login
Power: 100 Volts 300 watts
Equip Login Password:
Op Sys & Ver DB & Ver: Tru 64 UNIX 4.0
Rack or Shelf mount: Shelf
IP Num. Assigned: 64.56.180.55/28

Equipment Dimensions
H= 5.25 L=17.75 D= 18.00
Notes: RCTC Timeserver
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
NIST02.JP.CERTIFIEDTIME.COM
Serial Number: 4011DQMZ1040
Model Num. / Description:
DA-PB10A-AD / Compaq Alpha Time Server
Equip (root / admin) Login
Power: 100 Volts 300 Watts
Equip Login Password:
Op Sys & Ver DB & Ver: Tru 64 UNIX 4.0
Rack or Shelf mount: Shelf
IP Num. Assigned: 64.56.180.56/28
Equipment Dimensions
H= 5.25 L=17.75 D= 18.00
Notes: RCTC Timeserver
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
NIST03.JP.CERTIFIEDTIME.COM
Serial Number: 4102DQMZ1181
Model Num. / Description:
DA-PB10A-AD / Compaq Alpha Time Server
Equip (root / admin) Login
Power: 100 Volts 300 Watts
Equip Login Password:
Op Sys & Ver DB & Ver: Tru 64 UNIX 4.0
Rack or Shelf mount: Shelf
IP Num. Assigned: 64.56.180.56/28
Equipment Dimensions
H= 5.25 L=17.75 D= 18.00

Notes: RCTC Timeserver
Cage # 4-C4 Rack # Left-1 Shelf #

Equip. ID (your label):
NIST01.JP.CERTIFIEDTIME.COM
Serial Number: 9043723S-A173
Model Num. / Description:
Compaq Alpha Time Server - MONITOR
Equip (root / admin) Login
Power: 100 Volts 75 Watts
Equip Login Password:
Op Sys & Ver DB & Ver:
Rack or Shelf mount: Shelf/floor
IP Num. Assigned: 64.56.180.56/28
Equipment Dimensions
H= 14 L=14 D= 12
Notes: RCTC Timeserver Monitor
Cage # 4-C4 Rack # Left-1 Shelf #

[LETTERHEAD OF U.S. DEPT OF COMMERCE
National Institute of Standards and Technology]

24 April 2000

To whom it may concern:

This is to verify that CertifiedTime, Inc is actively involved in the operations of NIST Time Servers as a public and private service. This project has been formalized by a Cooperative Research and Development Agreement (CRADA) between NIST and Certified Time. As part of this joint effort, NIST and Certified Time have already installed three time servers in New York City, Vienna, Virginia and San Jose, California. Six additional time servers have been purchased with funds from Certified Time. These machines have been delivered to NIST and are currently being configured and tested. These additional machines will be deployed at various timing centers whose locations will be chosen in the near future.

All of these systems – both those that are already operational and those that will be installed in the near future, will be monitored by NIST as part of the agreement with Certified Time. This real-time monitoring will insure that the time transmitted by the server is directly traceable to UTC(NIST) with an accuracy (at the server) of about 0.001 s RMS. The reference time for all of the servers is derived from the NIST clock ensemble in Boulder, Colorado. The time of this ensemble is steered towards UTC as defined by the International Bureau of Weights and

Measures (BIPM) in Paris. The difference between UTC as defmed by the BIPM and UTC(NIST) as realized in Boulder is typically less than 5 nanoseconds (0.000 000 005 s).

The time difference between UTC(NIST) and UTC as maintained by other National Timing Laboratories is published monthly by the BIPM in its Circular T. This document can be used to estimate the difference between the various realizations of UTC. In most cases, these Differences are much smaller than 0.001 s, and they can therefore be ignored in the context of the Network Time Services.

Sincerely

/s/

Judah Levine, Project Leader
Network Time Service

Add Claimant Add Respondent

Claimant #1 Edit

Name:	Todd S. Glassey
Address:	2627 alpine rd Menlo park, CA 94305 United States of America
Tel:	650-926-9608
Fax:	6505610065
Email:	tglassey@Stanford.edu
Type of Business:	IP mgmt.

Representatives Add Representative
Edit Delete

Name:	Dennis Kennelly Esq.
Company Name:	Dennis Kennelly LLP
Address:	1030 Curtis St Menlo Park, CA 94125 United States of America
Tel:	650-853-1291
Fax:	6508547839
Email:	SecretaryMIM@AOL.COM

Edit Delete

Name:	Todd S. Glassey, In Pro Per
Company Name:	
Address:	2627 Alpine Rd Menlo Park, CA 94025 United States of America
Tel:	650-926-9608
Fax:	6505610065
Email:	TGlassey@Stanford.EDU

Respondent #1 Edit

Name:	Amano Group/Corp, and its Staff & Officers: Mssr's J Minamoto, Komoto, Haruda, M Konno, T Naito, et al.
Company Name:	Amano Group/Amano Corp, et Al
Address:	275 Mamedo-cho Kohoku Yokohama 222-8558 Japan
Tel:	+81-45-439-1508
Fax:	+81-45-439-1151
Email:	Yasuyoshi_Komoto@Amano.CO.JP

Representatives Add Representative
Edit Delete

Name:	Peter Isola Esq
Company Name:	Davis Wright and Tremane (counsel to Amano)
Address:	1 Embarcadero Center Suite 600 San Francisco, CA 94111 United States of America
Tel:	415-276-6500
Fax:	4152766599
Email:	peterisola@dwt.com
Contract Date:	10/25/2000

Attached Files Edit

File Name

Amano-contract-first+color.efx

Description

eFax copy of the CertifiedTime (CTI) and Amano Contract wherein CTI outsources the operations of its Tokyo Site to Amano for cash and Amano's use of the center's services and a license to use the core CTI IP. [This copy is color highlighted to mark critical parts of the contract.]

File Name

2001-02-09 - Success - Site up and Client is available - 8e8d7714.tif

Description

Statement of congratulations - the Delivered and Integrated Services are up and running in Tokyo. CertifiedTime has thus satisfied its part of the contract.

File Name

2001-03-08 Site Operations and First Customer - 8e8cf614.tif

Description

Secondary Congratulations on First Customer and CommonVIEW NIST Services being available from 08-Mar- 2001.

File Name

tak naito to TSG - we are sorry about what CTI did to you.tif

Description

Tak Naito as Amano's representative apologizes to Glassey "For What CTI Did to Him" that being "stole his IP". What Tak Naito is not telling Glassey is that he personally in fact "ordered the closure of the Tokyo Timing Center" and the destruction of the IP even though he has known all along of Glassey's struggle to recover it. This sets the tone for all of Amano's actions with Glassey and their covert deals with NIST.

File Name

GvA - The big picture.xls

Description

This excel spreadsheet has three pages, they are THE OBLIGATIONS BREAKDOWN - which parts of the contract pertain to being a RESELLER and to OPERATOR. The second sheet is RESPONSIBILITIES and this breaks which parts of the contract pertain to specific responsibilities. Additionally, there is a final sheet breaking down

under what parts of the contract Amano would have to spend what on. This document breaks down Amano's responsibilities for its use of the NIST Time Services defined in Paragraph Three and section §2.2.3 of the contract.

File Name

Amano seizes TTC.pdf

Description

PDF Document outlining Amano's seizing of the "the site" and in restricting CertifiedTime from its use. The problem was that this included hiding any knowledge of their continued use from the Bankruptcy Trustee as well. Amano, is a provider of services to CertifiedTime who misappropriated CertifiedTime's property entrusted to it in Tokyo.

File Name

Amano-contract-first.pdf

Description

PDF version of the CertifiedTime and Amano contract.

File Name

comp-crim.pdf

Description

Japanese Computer Crime Act - the seizing of the site by Amano violated a number of laws under this act, and as for the marketing, business operations, staffing, audit, disaster recovery, operations integrity, and the critical AICPA SysTRUST compliant audit that Amano was to build with the Auditors to facilitate the Warranty Plan's implementation.

Because of this critical breach Amano nor anyone else could sell "CertifiedTime" or issue the insurance under CertifiedTime's $1M per transaction indemnity policy with Lloyds of London. This failing eliminated all financially "Certified" Time operations inside As part of this Amano clearly failed to devote adequate resources to promote market and sell CTI services in the Territory. Amano failed to participate in the development of a joint branding scheme. The result was that CTI received no assistance in marketing its products or services in Japan. This affected revenue to the point where CTI became insolvent. This failure and breach was part of the total effort by Amano to force CTI into insolvency so that it could sidestep its contractual agreements for the use of the NIST Timing Services in Tokyo. *Damages sought $1.5 Million [U.S.]*

Fifth Claim For Relief: Breach of the Covenant of Good Faith and Fair Dealing and §7.1.6 of the contract - Amano's entire course of conduct in its dealings with CertifiedTime was designed to deprive CertifiedTime of the benefits of its bargain and to weaken it financially to move it toward insolvency. Further, its covert deals with NIST document its

actions in support of this allegation. *Damages sought $5.1 Million [U.S.]. The addition of the criminal status of the seizure of the data center in Japan further supports this claim as well.*

Sixth Claim For Damages: Fraud in the Inducement - Amano entered into a contract it had no intention of fulfilling, or honoring, solely to get access to NIST Certified Time and to be able to take credit for bringing the U.S. Time Base to Japan.,

Amano by its actions clearly had no intention of developing products to resell the indemnified services. The fraud prevented CTI from finding a reseller in Japan who would help them flourish and not be actively working toward their demise. Damages are the value of the CTI business whose demise Amano caused. *Damages sought $5.1 Million [U.S.] Plus punitive damages.*

Arbitration Clause: This is a second arbitration under the same arbitration clause used in the first Glassey v Amano matter at SF in May of 2004. See Section 16.5 of the Contract attached below.

16.5. Choice of Law, Arbitration. Laws of the State of California, USA, shall govern the validity and performance of this Agreement. Any dispute arising from or in connection with this Agreement shall be subject to binding arbitration in California in accordance with the commercial rules of the American arbitration Association, and judgment upon the arbitration award rendered may be

entered in any court having jurisdiction thereof. The prevailing party in any dispute under this Section shall recover reasonable attorney's fees and costs (including arbitration costs) from the other party.

Hearing Locale Requested:	San Francisco, CA
Filing Fee:	$14,000.00
Number of Neutrals:	1

Your dispute has been filed in accordance with:
Commercial Dispute Resolution Procedures
Edit

This Claim has Been Filed For: Arbitration

Claims Edit

Claim Amount:	$25,000,000.00
Claim Description:	In all claims, the defendants are referred to through the term of art "Amano".

Wherein we assert -

First Claim For Relief: Breach of Contract §2.3.2-§2.3.7 - Amano failed to reimburse CTI for software and hardware expenses incurred in the operation of the Timing Center, as well as the cost of having CertifiedTime operate the Timing Center from January 20, 2001 through June 20, 2001. Claimant's contract with Amano "licenses" the use of CertifiedTime's NIST(UTC) global timing services, which were developed under contract to CTI by

NIST. In return for the license, Amano was to design, build, staff, and operate a localized "Timing Services" business for CTI as part of its payment for the use of the NIST Services. All NIST services called for under the contract were in fact delivered to Amano, who used them through the end of the 2003 exceeding the contract's bounds as well. As such, and since this is actually all the contract calls for the delivery of, Amano owes the Estate and Successor of CertifiedTime per the contract. *Damages sought $2.45 Million [U.S.]*

Second Claim For Relief: Quantum Meruit - Amano failed to pay for software developed for its use at CertifiedTime's expense by Blue Slate and other outside providers. This software was forwarded to Amano. *Damages sought $1.5 Million [U.S.]*

Third Claim For Relief: Breach of Contract - Violation of §5.4.9 and §2.3.4 (see also §2.3.2, §2.3.5, §2.3.6, §2.3.7, §7.1.4). Amano had specific and important financial (§2.3.x) and service "operations" (§5.4.8, §5.4.9, and §7.x) obligations under the Agreement. These created a role for Amano as the sole "Outsource operator" of the Tokyo Timing Center.

Amano took this role to offload CertifiedTime as part of the royalties and license moneys Amano paid, so any failings in Amano's operations of the site would constitute a withholding of its agreed upon payments. This claim is further exacerbated in that on June 21st 2001, Amano seized and locked CertifiedTime permanently out of its Data Center.

Amano further misrepresented the state of the Systems within the Data Center to the Estate after it drove CertifiedTime into Bankruptcy and further withheld the Estate's Software's from its in violation of Japanese Penal Law.

Seizing of the Data Center: This third claim of Breach is further exacerbated by Amano Corps "seizing" the Data Center on June 21st 2001 that it contracted to operate for CertifiedTime Inc. This seizure is of course a criminal act under the Japanese Penal Law's Computer Crime Act of 1999 and was admitted to in open testimony in Arbitration #1 by Amano's "Person Most Knowledgeable", Mr. Tak Naito. The seizure of the Data Center included all Systems, Software, and Records within the Data Center. This seizure is a Criminal Act in Japan under the Japanese Computer Crime Act of 1999. The specific sections violated are sections: §234-2, §235, §243, §245, §258 and §259. This violation of the Law of Japan further violates the CTI-Amano Agreement's §5.4.9 and the Ethical Operations clause of the contract (§7.1.6), and was the core act that precipitated the insolvency and subsequent bankruptcy of CertifiedTime. *Damages sought $10 Million [U.S.]*

Fourth Claim For Relief: Breach of Contract §7.2.4, §7.1.4 §7.1.1 - Amano failed to develop the Intellectual Properties (IP's) called for under the contract to support the Timing Centers. This IP was the entirety of the Commercial Processes called for in sections 7.1.1, 7.1.2, 4.1.4, and 8.2. These plans were

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Type of Business:	manufacturing etc
Name:	Hiro Umezono Esq.
Company Name:	Masuda & Ejiri (Asahi Law Offices)
Address:	399 Park Avenue 18th Floor New York City, NY 1002 United States of America
Tel:	212-486-2525
Fax:	2124862614
Email:	HUmezono@MasudaEjiri.com

Milgrom, Barry

From: Milgrom, Barry
Sent: Wednesday, Apri1 16, 2003 9:30 AM
To: 'Hiroyuki Umezono'
Cc: Suzanne L. Decker Esq. (E-mail)
Subject: RE: CertifiedTime

Hiro,
I'm not surprised. Good luck in the future. There probably will be litigation from Glassey, but it probably would come even if Amano decided to proceed (although then in a different context).
Barry

-----Original Message-----
From: Hiroyuki Umezono [mailto: HUmezono@masudaejiri.com]
Sent: Wednesday, April 16, 2003 7:41 AM
To: Milgrom, Barry
Cc: Suzanne L. Decker Esq. (E-mail)
Subject: Re: CertifiedTtme

Dear Mr. Milgrom,

Amano has decided not to purchase the properties from the estate.

Thev have consistentlv maintained that the allegations of Amano's infringement are false and totally without merit - who owns the properties is irrelevant.
Hiro

-----Original Message-----
From: "Hiroyuki Umezono"
<HUmezono@masudaejiri.com]
To: Milgrom, Barry
Cc: Suzanne L. Decker Esq. (E-mail)
Sent: Tuesday, April 15, 2003 12:16 AM
Subject: Re: CertifiedTtme

Dear Mr. Milgrom,

Thank you very much for your email. I will need to discuss this matter with Amano today.

Hiro

-----Original Message-----
From: Milgrom, Barry
To: "Hiroyuki Umezono"
<HUmezono@masudaejiri.com]
Cc: "Suzanne L. Decker Esq. (E-mail)"
<suzanneldecker@aol.com
Sent: Monday, April 14, 2003 5:29 PM
Subject: Re: CertifiedTtme

Dear Mr. Umezono.

Thank you for the offer. Unfortunately, the Trustee cannot accept it.

There are a number of problems. First, while I can appreciate Amano's desire for complete certainty, particularly if it pays to purchase the rights of the Trustee, the Trustee cannot give that to Amano. The Trustee cannot prevent Mr. Glassey from filing suit

and will not be responsible if Mr. Glassey does take further action. In fact, I suspect that Mr, Glassey will file suit even if Amano does buy from the Trustee. (I would expect the suit to look like the one that Glassey filed aisinst the Trustee, which I sent to you.

Specifically, Glassey will try to say that his transfer of the IP, – although I don't know which IP – to the Debtor should be rescinded or set aside. Then he would own it and could sue. You also ask that $10,000 be used to fend off Mr. Glassey's claim. But there is no way of knowing whether that would be sufficient to do so or guaranteeing the result of any such litigation.

Therefore, tho Trustee cannot accept any offer with the conditions imposed by the last two paragraphs of your e-mail. Finally, if the Trustee is to reach an agreement with Amano, the Trustee will then be involved in litigation with Mr. Glassey. That is why I indicated that any offer Amano makes must be substantially higher that Mr. Glassey's.

I would recommend that the Trustee try to consummate a clean deal to sell to Amano for $50,000 all of the estate's right, title and interest in elaims against Amano, the estate's tangible assets located outside the USA and the estate's intellectual property (all without representation or warranty – basically on the same terms of sale – but not price-contained in the letter proposed to Glassey, with a waiver by Amano of its claims against the estate. There could be no conditions about how the

money is to be spent and there could be no indemnity, hold harmless or other reimburse or defense rights in favor of Amano.

Please let me know if your client is interested in proceeding.

Sincerely,
Barry Milgrom

-----Original Message-----
From: Hiroyuki Umezono [mailto: HUmezono@masudaejiri.com]
Sent: Monday, April 14, 2003 7:08 AM
To: bmilgrom@luce.com
Cc: suzanneldecker@aol.com
Subject: Re: CertifiedTtme

Dear Mr. Milgrom,

Amano Corporation wishes to purchase the proporties (but excluding the tangible assets for $20,000. As far as we understand, there no longer remains any tangible asset in Japan with respect to which any "rent claim" is outstanding, nor is there any tangible asset to purchase from the estate.

Amano Corporation is quite confident that Todd Glassey's allegations against Amano are totally without merit irrespective of the outcome of the disputes outstanding between the Debtor's estate and Mr. Glassey. There shall be no infringement by Amano of any of the rights that Mr. Glassey alleges belong not to CertifiedTime but to him. However, I

guess Amano has found it prudent, as a matter of litigation economy, for them to purchase the properties to hopefully minimize their defending costs and expenses in relation to any claim or action brought by Mr. Glassey. Amano' s move has never been driven by any such motive to unreasonably block or hinder efforte by Mr. Glassey to protect his legitimate rights or interests, if any.

I am looking forward to receiving a draft offer letter to be signed by Amano Corporation.

Please make it a condition for Amano's purchase that the estate uses $10,000 out of the purchase price solely for the purpose of fending off Mr. Glassey's claims.

I also need some languages in the agreement to the effect that the estate shall be solely responsible for any and all damages awarded or rendered in actions or settlements, costs and expenses (including attorneys' fees) associated with the disputes with Mr. Glassey, in relation to its properties including those Amano is going to purchase.

Beat regards,

Hiro Umezono
Masuda & Ejiri - New York
(Asahi Koma Law Offices)
April 14. 2003

-----Original Message-----
From: "Hiroyuki Umezono"
<HUmezono@masudaejiri.com]
To: <bmilgrom@luce.com>
Cc: <suzanneldecker@aol.com
Sent: Saturday, April 12, 2003 10:47 AM
Subject: CertifiedTtme

Dear Mr. Milgrom,

I had discussions with Amano Corporation on the opportunities for them to make overbidding offer to purchase the properties from the estate. Amano Corporation does wish to purehase the properties. We however have to come up with purchase price to offer, I will let you know by Monday.

Thank you very much in advance.

April 12, 2003
Hiro Umezono
Masuda & Ejiri
(Asahi Koma Law Offices)

[ø]:* Masamiki Konno/AMANO/JP
[ø]: 2003/09/20 13:16
[ø]

[ø]: 2001/02/09 Congratulations! (NTP Agent status report)

"Pat Casey" <pat.casey@certifiedtime.com>
2001/02/09 05:01:38

[ø]
[ø]: Hiroshi Hanyu/AMANO/JP@AMANO
Masamiki Konno/AMANO/JP@AMANO
"Dolf Starreveld"
<dolf@certifiedtime.com>

cc: "Mark Williams" <mark@certifiedtime.com>
"Pat McEntee (Cert)"
<pat@certifiedtime.com>
Tadahiro Sato/AMANO/JP@AMANO
Takamitsu Naito/AMANO/JP@AMANO
"Shahin Saadati"
<shahin.saadati@certifiedtime.com>
"Jamila Gunawardena"
<jamila@certifiedtime.com>

[ø]: "Pat Casey" <pat.casey@certifiedtime.com>

[ø]: Congratulations! (NTP Agent status report)

Hi Hanyu san and Konno san,

---

*Untranslated Japanese characters will be denoted by [ø].

Congratulations on achieving this critical milestone. Not only is the NTP Agent currently available for download, but your web site looks fantastic and navigates easily. If I can successfully download the client without understanding Japanese, I'm sure anyone can without hesitation. I also like the idea of having to register before downloading, we'll have to incorporate something similar.

As promised, here is the status of events that occurred a few nights ago as we prepared to deliver the NTP Agent to Amano.

Modifications made during pre-delivery of first version

* Redirected and renamed two server name hosts from public CTI locations to Tokyo ROTC. Renamed third CTI server name to start with etiming.

* Removed editing capability of server names to reduce chance of user error and to prominently promote Amano RCTC.

Modifications made during actual delivery of Agent

1) First version of client sent to Amana for Testing of Japanese version of Windows -

Issue - Upon installation, received an error message about some missing DLL files. Those DLL files get installed by a part of Windows setup called RAS (Remote Access Service) which is used for Dial-Up

connections. This problem even happens in Microsoft Outlook if RAS is not installed, but Outlook does not break. the error message appears only when the user goes to that part of the program, while the NTP Agent does not even start without having RAS installed. This would potentially affect all systems that do not have RAS feature installed. Unfortunately, we did not see this error as all of CTI's test systems already had RAS installed.

Remedy - After evaluating the time consideration and feature benefit, our assessment was to remove the Connection Tab, unti I such time it can be implemented and well tested.

Impact of change - Minimal. maybe even positive. Public service should be easy and require little/no support. Dialup capability is difficult for many users as it requires system configuration changes. Most users will already have an internet connection, this will be how they download the client in the first place.

2) Second version of client sent to Amano to repeat tests -

Issue - During installation testing on Konno's Win98 system, the Windows installer being used by the Client Agent updated 2 local DLL file residing on /windows/system. This new DLL caused a conflict within Windows OS and prevented the system from booting up. This was corrected by reinstalling the original system DLL.

Remedy - To prevent DLL conflicts with existing system DLL's, the installer was modified to install the two Agent DLL files in the local NTP Agent directory "/Program Files/Amano/NTP Agent".

Impact - Positive - this DLL isolation will ensure a safe environment today and into the future as new unknown applications are installed and system configuration changes are made, all of which could introduce incompatibility issues.

3) Third version of client sent to Amano -

Issue - A) Amano requested a URL change from their previous request. B) Amano requested that the NTP log not default to the Windows desktop.

Remedy - A) The link on the home tab of the Agent was changed from Amano to point directly to e-timing home URL. B) NTP log was redirected to default to the root directory, c:[ø]certifiedtime. log

Impact - Positive - Logs should not default to the desktop as this will cause unnecessary clutter. An addition of the log location on the NTP log page of the client will prove useful.

4) Final version of client sent to Amano. Victory declared!

-----Original Message-----
From: Masamiki_Konno@amano.co.jp [mailto: Masamiki_Konno@amano.co.jp]
Sent: Wednesday, Februarv 07, 2001 5:31 PM

To: Dolf Starreveld
Cc: Tadahiro_Sato@j-csj.co.jp;
Takamitsu_Naito@j-csj.co.jp; Pat Casey
Subject: RE: Client done? Web site issue!

Dear Dolf san Pat san

Tho WEB page have been updatod around 10:00 our time with new NTP cleint, Thank you!

Regards
Konno